ESTTA Tracking number:

ESTTA688468 08/10/2015

Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91214795		
Party	Defendant Sean Broihier and Associates, LLC		
Correspondence Address	AMY SULLIVAN CAHILL STITES & HARBISON PLLC 400 W MARKET ST, STE 1800 LOUISVILLE, KY 40202-3352 UNITED STATES acahill@stites.com		
Submission	Motion to Suspend for Civil Action		
Filer's Name	Amy S. Cahill		
Filer's e-mail	acahill@stites.com		
Signature	ature /Amy S. Cahill/		
Date	08/10/2015		
Attachments	achments PIXELS MOTION TO STAY - FULL.pdf(3331472 bytes)		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE IN THE TRADEMARK TRIAL AND APPEAL BOARD

INSTAGRAM, LLC,)
Opposer)
v.	Opposition. No. 91214795 U.S. App. Ser. No. 85/742,628
PIXELS.COM, LLC,	
Applicant)
)

APPLICANT'S MOTION TO STAY PENDING OUTCOME OF CIVIL ACTION

Applicant, Pixels.com, LLC hereby moves that all further proceedings in this Opposition proceeding be stayed, pending resolution of Civil Action No. 3:15-cv-03610-JSC, styled Pixels.com LLC v. Instagram, LLC, now pending in the United States District Court for the Northern District of California. A copy of the Complaint and Summonses in the civil action are attached.

As indicated by the contents of the Complaint, the issues presented in the civil action are both identical and overlapping with those presented in this Opposition, including the issue of whether the applied for mark is likely to cause confusion with or is likely to dilute the marks asserted by the Opposer as the basis for the Opposition. The parties to the pending civil case are identical to the parties to this proceeding.

The Board may suspend proceedings when it comes to the Board's attention that the parties are involved in a civil action which may have a bearing on the Board case. Trademark Rule 2.117(a); TBMP § 510.02. The Board has discretion in determining whether a suspension is warranted under the facts presented after review of the pleading in the civil litigation. *Martin*

Beverage Co. v. Colita Beverage Corp., 169 USPQ 568 (TTAB 1971) (decided under earlier version of Trademark Rule 2.117(a)).

In *B&B Hardware, Inc. v. Hargis Indus., Inc., et al.*, 575 U.S. ____ (2015), issued on March 24, 2015, the Supreme Court held that an administrative decision by the Trademark Trial and Appeal Board ("TTAB") as to whether one trademark is likely to cause confusion with another may be given preclusive effect by federal district courts faced with the same question in trademark infringement cases, if the traditional test for preclusion is otherwise met. Because the civil litigation will afford discovery that is relevant to the right to use the parties' respective marks, in addition to the right to their registration, it provides a more comprehensive forum to develop the facts that are common to both proceedings. Notwithstanding the limited holding of the Supreme Court in *B&B Hardware* that pertains to potential preclusion of the retrial of particular issues, the decision of the district court may be binding on the Board, while the final decision of the Board may not be binding on the District Court. Absent unusual circumstances, the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board. *See e.g. New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011).

The Board also considers the stage of the Board litigation in exercising its discretion on questions of suspension under TBMP § 510.02. Discovery is not set to close in the current proceeding until September 22, 2015. No depositions have been scheduled or taken by either party. No dispositive motions have been filed on the merits of Opposer's claims. No experts or expert reports have been disclosed.

Accordingly, since resolution of this matter would appear to be capable of full and complete resolution in the United States District Court and because the Opposition proceeding is

¹ Opposer filed a motion to strike certain affirmative defenses early in the litigation, which motion was granted.

in the early discovery stages, it is respectfully requested that all further proceedings in this opposition be stayed until the civil action is resolved.

Respectfully submitted,

STITES & HARBISON, PLLC

s/Amy Sullivan Cahill
Amy S. Cahill
STITES & HARBISON PLLC
400 W. Market Street, Suite 1800
Louisville, KY 40202
Telephone: (502) 587-3400
Facsimile: (502) 779-9805
Email: acahill@stites.com

Counsel for Applicant, Pixels.com, LLC

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2015, a copy of Applicant's Motion for Stay was served on counsel for Opposer, via first class mail, postage prepaid to:

Bobby Ghajar Marcus Peterson PILLSBURY WINTHROP SHAW PITTMAN 725 S. Figueroa Street, Suite 2800 Los Angeles, CA 90017 213-488-7551

> <u>s/ Amy Sullivan Cahill</u> Amy Sullivan Cahill

F5234:5549:1042463:1:LOUISVILLE

1 2 3 4 5 6 7 8	VIJAY K. TOKE (CA Bar No. 215079) (vijay@cobaltlaw.com) MATTHEW S. SLEVIN (CA Bar No. 2879) (matt@cobaltlaw.com) COBALT LLP 918 Parker Street, Bldg. A21 Berkeley, CA 94710 Telephone: (510) 841-9800 Facsimile: (510) 295-2401 JOEL T. BERES (CA Bar No. 125890) (jberes@stites.com) AMY CAHILL (to be admitted pro hac vice (acahill@stites.com) STITES & HARBISON PLLC				
	400 West Market Street, Suite 1800				
10 11	Louisville, KY 40202-3352 Telephone: (502) 587-3400 Facsimile: (502) 587-6391				
12					
13	MARI-ELISE TAUBE (to be admitted pro h (mtaube@stites.com)	nac vice)			
14	STITES & HARBISON PLLC 1199 North Fairfax St., Suite 900				
15	Alexandria, VA 22314 Telephone: (703) 837-3932 Faccinite: (703) 518 2052				
16	, ,	Facsimile: (703) 518-2952			
17	Attorneys for Plaintiff PIXELS.COM, LLC				
18	UNITED STAT	TES DISTRICT COURT			
19	NORTH	IERN DISTRICT			
20					
21	PIXELS.COM, LLC, an Illinois limited liability company,	Case No. 2:14-CV02337 COMPLAINT FOR DECLARATION OF NON-			
22	Plaintiff,	INFRINGEMENT AND NON-DILUTION OF TRADEMARK RIGHTS AND FOR			
23	v. INSTAGRAM, LLC, a Delaware limited liability company, Defendant. ANTITRUST VIOLATION DEMAND FOR JURY TRIAL (1) Declaratory Judgment of Non-Infringement (2) Declaratory Judgment of No Commo Law Infringement				
24					
25					
26					
27	(3) Declaratory Judgment of No False Designation of Origin (15 U.S.C.				
28		§1125(a))			
STITES & HARBISON PLLC ATTORNEYS AT LAW TOMSWILE		PIXELS.COM, LLC V. INSTAGRAM			

	Case3:15-cv-03610-JSC Document	1 Filed08/06/15 Page2 of 25		
1 2		(4) Declaratory Judgment of No Unfair Competition (15 U.S.C. §1125(a))		
3		(5) Declaratory Judgment of No Dilution (15 U.S.C. §1125(c))		
4		(6) Declaratory Judgment on Equitable Grounds		
5		(7) Violation of Antitrust Laws (15 U.S.C. §1125(b)(7); 15 U.S.C. §2)		
7		(8) Unfair Business Practices (Cal. Bus. & Prof. Code §17200)		
8 9	CO	MPLAINT		
10	COMILANI			
11	Plaintiff Pixels.com, LLC ("Plaintiff" or "Pixels"), by its attorneys, for its complaint			
12	against Defendant Instagram, LLC ("Defendant" or "Instagram") hereby alleges as follows:			
13	INTRODUCTION			
	1. This is an action by Plaintiff for a declaratory judgment of non-infringement and			
14	non-dilution of Defendant's INSTAGRAM trademark rights. Plaintiff seeks a declaration that its			
15	use of its INSTAPRINTS mark does not infringe or dilute Defendant's rights in its INSTAGRAM			
16	trademark. Plaintiff also seeks a judgment that Defendant has misused its alleged trademark			
17	rights in violation of federal antitrust laws and California state unfair competition laws.			
18	2. On October 1, 2012, Plaintiff filed an application with the United States Patent and			
19	Trademark Office ("USPTO") to register the INSTAPRINTS mark, which the USPTO			
20	determined was not confusingly similar to any of Defendant's INSTAGRAM registered marks.			
21	Despite the USPTO's determination, on February 5, 2014, Defendant filed a Notice of Opposition			
22	objecting to registration of Plaintiff's INSTAPRINTS mark before the USPTO's Trademark Trial			
23	and Appeal Board, claiming that Plaintiff's us	se and registration of its INSTAPRINTS mark		
24		INSTAGRAM marks. Plaintiff brings this action to		
25	clarify the rights of the Parties.			
26	•	of the component parts of its INSTAGRAM		
27	-	"insta" derived from "instamatic" cameras and the		
28	mand me man to a composite of the prenx	mote dollyed from motentatio cameras and the		

STITES &
HARBISON PLLC
ATTORNEYS AT LAW
LOUISVILLE

suffix "gram" from the word "telegram"—Defendant has opposed over sixty trademark applications with little apparent consideration for the merits of such oppositions. Defendant has engaged in this purposeful campaign of objectively baseless litigation in an unlawful effort to prevent the registration and/or use of marks that businesses adopted, in certain cases, based on affirmative assurances by Defendant that such marks were not infringing. Many of the third-party marks that have been the subjects of Defendant's objection are used or proposed for use in connection with goods and services that are wholly distinct from the goods and services Defendant offers in connection with its marks.

4. Upon information and belief, and as further alleged below, in an effort to avoid the affirmative equitable defenses to infringement that would be available to these third-parties in court and in an effort to monopolize the markets for certain Internet-based services, Defendant has misused its trademark rights by exceeding the scope of its legal rights, resulting in injury to fair and free competition.

PARTIES

- 5. Pixels is an Illinois limited liability company having its principal place of business at 1450 Second Street, Santa Monica, California 90401.
- 6. Instagram is a Delaware limited liability company having its principal place of business at 1601 Willow Road, Menlo Park, California 94025.

JURISDICTION AND VENUE

- 7. This Court has subject matter jurisdiction in this civil action for Declaratory Judgment of non-infringement and non-dilution of trademark rights under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2201, as well as under the Lanham Act, 15 U.S.C. § 1125(a) and (c).
- 8. This court has subject matter jurisdiction in this civil action for trademark misuse and violation of antitrust laws of the United States, as well as under the Lanham Act, 15 U.S.C. § \$ 1125(a), et seq. and the Sherman Act, 15 U.S.C. §§ 1, et seq.
- 9. Venue is proper in this Court under 28 U.S.C. § 1391, because Defendant resides in this judicial district and because a substantial portion of the events giving rise to this action

occurred in this District. Specifically, Defendant has alleged that Plaintiff's use of its INSTAPRINTS mark is an infringement of Defendant's rights in the mark INSTAGRAM and is also diluting the INSTAGRAM mark.

INTRADISTRICT ASSIGNMENT

10. Pursuant to Civil L.R. 3-2(c) and General Order No. 44, this case is properly assigned to any division of this Court, except that pursuant to Civil Local Rules 3-2(g) and 73-1, Plaintiff does not consent to assignment to a Magistrate Judge residing in the Eureka Division.

FACTUAL BACKGROUND

- 11. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 12. Plaintiff owns and operates the website located at the domain Instaprints.com, which has revolutionized the way that artwork, including photographs, is bought and sold around the world. Artists and photographers can upload artwork to Instaprints.com and consumers can order artwork in the form of prints, framed prints, canvas prints, greeting cards, and more. Once an order is placed, Plaintiff fulfills each order on behalf of the artist/photographer, collecting payments from the buyers, and sending a percentage of profits to the artist/photographer.
- 13. Defendant Instagram launched its services on or about October 6, 2010. https://instagram.com/press/. Defendant Instagram is a social networking website designed to allow individuals to share photographs by posting photographs to the site or by sharing them through other social media platforms such as Facebook. According to its web site https://instagram.com/:

Instagram is a free and simple way to share your life and keep up with other people.

Take a picture or video, then customize it with filters and creative tools. Post it on Instagram and share instantly on Facebook, Twitter, Tumblr and more—or send it directly as a private message. Find people to follow based on things you're into, and be part of an inspirational community.

- 14. Plaintiff launched the Instaprints.com website on or about June 25, 2012. Before Plaintiff launched its website and adopted its trademark, it reviewed the Instagram terms of use. These terms of use stated that third-parties were permitted to use the component "INSTA" or the component "GRAM" in trademarks, but were not permitted to use both components in a product name.
- 15. The relevant portion of the terms of use presented on Instagram's web site in April, 2012 are reproduced from a screen capture taken from www.web.archive.org below and attached hereto as Exhibit A:

INSTAGRAM API TRADEMARK AND BRAND GUIDELINES

- You are not allowed to use the word "Instagram", "IG" or any variation in your product name, domain name, or images.
- You are not allowed to use the Instagram icon or logo unless specifically allowed in the development documentation.
- If you do incorporate Instagram's logos, you must include the following statement clearly on your website: "This [application website] uses the InstagramTM API and is not endorsed or certified by Instagram or Burbn, Inc. All InstagramTM logos and trademarks displayed in this [application website] are property of Burbn, Inc."
- While you cannot use the word "Instagram" or "IG" in your product's name, it's ok to use one (but not both) of the following: "Insta" or "gram".
- Note that we reserve the right to reject any use of these terms in connection with the use of the Instagram API. (Emphasis supplied).
- 16. On or around June 15, 2012, Plaintiff requested and received API credentials from Instagram for use in connection with its Instaprints.com business. API credentials permit one web site to securely obtain data from another web site for a variety of purposes. Developers were actively encouraged to use Instagram API credentials to develop new services to complement Instagram's online services.
- 17. In order to receive API credentials from Instagram, Plaintiff was required to register with Instagram. As part of this registration process, applicants including Plaintiff provide the name of their business and their business URL.

18. Defendant had a direct interest in developers like Plaintiff launching businesses that would support and grow the Instagram business. To this end, Instagram provided Plaintiff and others with API credentials that allow Internet users to import materials from the Instagram site to third-party sites, including Instagrints.com.

- 19. The more businesses that provide services that are based on the Instagram technical platform, the more users are developed around the Instagram business, which is a direct benefit to Instagram. Consumers also benefit from shared API credentials as the interoperability of platforms permitted by shared API allows consumers to access more goods and services with greater convenience.
- 20. Instagram's policy of allowing, or even encouraging, the development of businesses based on the Instagram technical platform that incorporate the formative "Insta" or "gram" in their name reflected Instagram's understanding and tacit admission of the weakness of these "insta" and "gram" elements outside of Defendant's composite INSTAGRAM mark. Indeed, in a 2014 "FAQ" section on the Instagram website, Instagram indicated in response to the question of where the INSTAGRAM mark derived from that, "When we were kids we loved to play around with cameras. We loved how different types of old cameras marketed themselves as "instant" something we take for granted today. We also felt that the snapshots people were taking were kind of like telegrams in that they got sent over the wire to others so we figured why not combine the two?" A true and correct copy of these FAQ's of Instagram is attached hereto as Exhibit B. Therefore, by its own admission, Instagram has acknowledged that the component parts of its mark are descriptive and, hence, weak on their own.
- 21. Defendant had actual knowledge of Plaintiff's adoption and use of the INSTAPRINTS trademark in 2012. Defendant received and approved Plaintiff's documentation to receive and use the Instagram API, including the name of Plaintiff's company and business and URL (which incorporated and/or referenced Plaintiff's INSTAPRINTS mark). Despite its actual knowledge of Plaintiff's adoption and use of the INSTAPRINTS trademark in 2012, Defendant did not object to Plaintiff's use of the trademark.

STITES &
HARBISON PLLC
ATTORNEYS AT LAW

- 22. Since the launch of Plaintiff's Instaprints.com website in 2012, Plaintiff has invested tens of thousands of dollars in promoting its goods and services using the INSTAPRINTS mark and has garnered significant goodwill among consumers as a result of sales and advertising.
- 23. Over approximately the past three years, Plaintiff has used and promoted its mark INSTAPRINTS and the goods and services offered under the INSTAPRINTS mark extensively in commerce. The products and services offered under the INSTAPRINTS mark have been covered in mainstream news and business publications including *The Los Angeles Times*, *TechNews Gadget*, and *Mashable*, among others.
- 24. Instagram knew of Plaintiff's use of the INSTAPRINTS trademark through Plaintiff's application for and receipt of API credentials, and with this knowledge, Instagram made both implicit assurances (by issuing Plaintiff its API credentials) and explicit assurances (by posting terms of use that permitted the branding adopted by Plaintiff) to Plaintiff that its trademark usage was acceptable to Instagram. Plaintiff reasonably relied upon those assurances.
- 25. To Plaintiff's knowledge, its use of the INSTAPRINTS marks has never caused an instance of consumer confusion as to the source, affiliation, or sponsorship of any of its products or services.
- 26. Upon information and belief, Defendant does not currently sell, nor has it ever sold, artwork or prints from photographs uploaded to Instagram.com.
- 27. On information and belief, Defendant owns U.S. Registration No. 4,170,675 for the mark INSTAGRAM for use in connection with "downloadable computer software for modifying the appearance and enabling transmission of photographs" and U.S. Registration No. 4,146,057 for the mark INSTAGRAM for use in connection with "providing a web site that gives users the ability to upload photographs; technical support services, namely, providing help desk services in the field of computer software, namely, providing users with instructions and advice on the use of downloadable computer software, provided online and via e-mail; computer services, namely, providing an interactive website featuring technology that allows users to manage their online photograph and social networking accounts." A copy of publicly available

STITES &
HARBISON PLLC

information for Defendant's registrations from the U.S. Patent and Trademark Office TSDR database is attached hereto as Exhibit C.

- 28. On information and belief Defendant has filed a number of applications for registration of INSTAGRAM in standard character and stylized form in connection with like goods and services.
- 29. The Parties have been aware of one another, and their mutual use of marks containing the component INSTA, since 2012.
- 30. The Parties have offered their respective products and services online for years without conflict or confusion of any kind.
- 31. Despite the fact that Plaintiff's website is compatible with Defendant's platform, Plaintiff has never experienced even a single instance of consumer confusion as between the Parties' respective trademarks, products, services or businesses.
- 32. In April 2012, Facebook Inc. purchased Instagram for a purported \$1 Billion dollars. Exhibit D.
- of INSTAPRINTS, U.S. Serial No. 85/742,628, for use on or in connection with "[p]rint products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards" in Class 16, "[o]nline retail store services featuring print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards; advertising services, namely, promoting the artwork of other artists; promoting visual arts events by means of providing an online events calendar, and information about art, artists, and art events via an internet website, all for promotional purposes; online business networking services for artists; online advertising and marketing in the field of artwork" in Class 35, and "[o]nline photographic and image processing services, namely, photographic printing, reproduction and retouching; transferring photographic and digital images from uploaded digital images to imprintable surfaces, namely, printing of photographic images from digital media." A copy of the publicly available information from the U.S. Patent and Trademark Office database for Plaintiff's application is attached hereto as Exhibit E.

STITES &
HARBISON PLLC
ATTORNEYS AT LAW

- 34. The USPTO examined Plaintiff's INSTAPRINTS application and did not cite any of the prior registrations for INSTAGRAM as potential bars to registration under a likelihood of confusion or dilution. The USPTO therefore determined that Plaintiff's mark was registrable.
- 35. Upon information and belief, sometime in 2013 Instagram adopted new terms of use that were directly contradictory to its previous terms of use in force at the time Plaintiff adopted its INSTAPRINTS mark. Despite this diametric shift in its terms of use and Defendant's knowledge of Plaintiff's use of the INSTAPRINTS mark, Defendant did nothing to prevent Plaintiff's use of its INSTAPRINTS mark while Plaintiff invested significantly to develop its business over the next two years.
- 36. Notwithstanding this long silence and uneventful co-existence in the marketplace, on February 5, 2014, Defendant filed a Notice of Opposition to registration of Plaintiff's INSTAPRINTS mark before the United States Patent and Trademark Office Trademark Trial and Appeal Board, claiming that Plaintiff's use and registration of its INSTAPRINTS mark infringes and dilutes Defendant's rights in its INSTAGRAM marks. Exhibit F.
- 37. Plaintiff has denied the salient allegations in the Notice of Opposition before the Trademark Trial and Appeal Board.
- 38. In connection with Defendant's formal objection to Plaintiff's INSTAPRINTS trademark application, Defendant has now contacted Plaintiff through its attorney with a demand that Plaintiff cease using the INSTAPRINTS mark and adopt a new mark.
- 39. Based on the action filed before the Trademark Trial and Appeal Board and Defendant's communications with Plaintiff, through the parties' attorneys, Plaintiff has a real and reasonable apprehension of federal litigation with regard to the same trademarks and issues involved in the Trademark Trial and Appeal Board action.
- 40. There is no likelihood of confusion as to the source, affiliation, or sponsorship of the Parties' respective products, services, or businesses. Accordingly, Plaintiff's INSTAPRINTS mark does not infringe any of Defendant's INSTAGRAM marks.
- 41. Plaintiff's use and registration of its INSTAPRINTS mark is not likely to dilute Defendant's INSTAGRAM marks.

- 42. Defendant's claims of infringement and dilution are invalid given the application of the equitable defenses of laches, acquiescence, and estoppel as complete defenses to those claims.
- 43. Defendant has misused its trademarks in violation of antitrust and state unfair competition laws in a manner that is intended and does in fact cause harm to free and fair competition.

COUNT I

<u>DECLARATORY JUDGMENT FOR NO FEDERAL TRADEMARK INFRINGEMENT</u> (15 U.S.C. § 1114)

- 44. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 45. A real and actual dispute, case, and/or controversy exists between the Parties as to a state of facts, in particular Plaintiff's past and continued use of its INSTAPRINTS mark and the registrability of its INSTAPRINTS mark.
- 46. Plaintiff and Defendant have adverse and antagonistic interests in the subject matter of the dispute, case, and/or controversy.
- 47. Plaintiff seeks a declaratory judgment that its past and continued use of the INSTAPRINTS mark is not intended or likely to cause confusion, mistake, or deception as between the source, association, or affiliation of the Parties' respective products, services, or businesses, and therefore does not infringe Defendant's INSTAGRAM marks under the Lanham Act, 15 U.S.C. § 1114.
- 48. Plaintiff further seeks a declaration that its past and continued use of the INSTAPRINTS mark has not and does not jeopardize the goodwill, if any, symbolized by Defendant's registered INSTAGRAM trademarks, nor does it cause any injury to Defendant under the Lanham Act.
- 49. In the alternative, Plaintiff seeks a declaration that Defendant's claims of trademark infringement and trademark dilution are barred by the equitable defenses of laches, estoppel, and acquiescence.

9

12

13

11

14

16

15

18

17

19 20

21

22 23

24 25

26

27

28

HARBISON PLLC TTORNEYS AT LAW

50. Defendant is further prevented from objecting to or instituting an action or proceeding with respect to Plaintiff's use or registration of its INSTAPRINTS mark because Instagram has misused its trademark rights by attempting to enforce its rights beyond their lawful scope with the intent to stifle competition.

COUNT II

DECLARATORY JUDGMENT FOR NO COMMON LAW INFRINGEMENT

- Plaintiff incorporates by reference the allegations in the preceding paragraphs of 51. the Complaint.
- 52. A real and actual dispute, case, and/or controversy exists between the Parties as to a state of facts, in particular Plaintiff's past and continued use of its INSTAPRINTS mark and the registrability of its INSTAPRINTS mark.
- 53. Plaintiff and Defendant have adverse and antagonistic interests in the subject matter of the dispute, case, and/or controversy.
- 54. Plaintiff seeks a declaratory judgment that its past and continued use of the INSTAPRINTS mark is not intended or likely to cause confusion, mistake, or deception as between the source, association, or affiliation of the Parties' respective products, services, or businesses, and does not infringe Defendant's INSTAGRAM marks under the common law.
- 55. Plaintiff further seeks a declaration that its past and continued use of the INSTAPRINTS mark has not and does not jeopardize the goodwill, if any, symbolized by Defendant's registered INSTAGRAM trademarks, nor does it cause any injury to Defendant under the common law.
- 56. In the alternative, Plaintiff seeks a declaration that Defendant's claims of trademark infringement and trademark dilution are barred by the equitable defenses of laches, estoppel, and acquiescence.
- 57. Defendant is further prevented from objecting to or instituting and action or proceeding with respect to Plaintiff's use of registration of its INSTAPRINTS mark because Instagram has misused its trademark rights by attempting to enforce its rights beyond their lawful scope with the intent to stifle competition.

COUNT III

DECLARATORY JUDGMENT FOR NO FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

- 58. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 59. A real and actual dispute, case, and/or controversy exists between the Parties as to a state of facts, in particular Plaintiff's past and continued use of its INSTAPRINTS mark.
- 60. Plaintiff and Defendant have adverse and antagonistic interests in the subject matter of the dispute, case, and/or controversy.
- 61. Plaintiff seeks a declaratory judgment that its past use and continued use of the INSTAPRINTS mark is not intended or likely to cause confusion, mistake, or deception as between the source, association, or affiliation of the Parties' respective products, services, or businesses, and does not constitute false designation of origin with Defendant's INSTAGRAM marks under the Lanham Act, 15 U.S.C. § 1125(a).
- 62. Defendant is further prevented from objecting to or instituting and action or proceeding with respect to Plaintiff's use of registration of its INSTAPRINTS mark because Instagram has misused its trademark rights by attempting to enforce its rights beyond their lawful scope with the intent to stifle competition.
- 63. Plaintiff further seeks a declaration that its past and continued use of the INSTAPRINTS mark has not and does not jeopardize the goodwill, if any, symbolized by Defendant's registered INSTAGRAM trademarks, nor does it cause any injury to Defendant under the Lanham Act.
- 64. Plaintiff further seeks a declaration that Defendant is prevented from enforcing its trademark rights based on equitable principles of laches, estoppel, and/or acquiescence.

/// ///

///

///

26

25

27

28

	4
	5
	6
	7
	8
	9
1	0
	1
1	
	3
	<i>3</i> 4
	5
	6
	7
	8
	9
2	0
2	1
2	2
2	3
2	4
2	5
2	6
2	7
2	8

2

3

COUNT IV

DECLARATORY JUDGMENT FOR NO UNFAIR COMPETITION

(15 U.S.C. § 1125(a))

- 65. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 66. A real and actual dispute, case, and/or controversy exists between the Parties as to a state of facts, in particular Plaintiff's past and continued use of its INSTAPRINTS mark.
- 67. Plaintiff and Defendant have adverse and antagonistic interests in the subject matter of the dispute, case, and/or controversy.
- 68. Plaintiff seeks a declaratory judgment that its past and continued use of the INSTAPRINTS mark is not intended or likely to cause confusion, mistake, or deception as between the source, association, or affiliation of the Parties' respective products, services, or businesses, and does not unfairly compete with Defendant under the Lanham Act, 15 U.S.C. § 1125(a).
- 69. Defendant is prevented from objecting to or instituting and action or proceeding with respect to Plaintiff's use of registration of its INSTAPRINTS mark because Instagram has misused its trademark rights by attempting to enforce its rights beyond their lawful scope with the intent to stifle competition.
- 70. Plaintiff further seeks a declaration that its past and continued use of the INSTAPRINTS mark has not and does not jeopardize the goodwill, if any, symbolized by Defendant's registered INSTAGRAM trademarks, nor does it cause any injury to Defendant under the Lanham Act.
- 71. Plaintiff further seeks a declaration that Defendant is prevented from enforcing its trademark rights based on equitable principles of laches, estoppel and/or acquiescence.

///

///

COUNT V

DECLARATORY JUDGMENT FOR NO DILUTION

(15 U.S.C. § 1125(c))

- 72. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 73. A real and actual dispute, case, and/or controversy exists between the Parties as to a state of facts, in particular Plaintiff's past use and continued use of its INSTAPRINTS mark and the registrability of its INSTAPRINTS mark.
- 74. Plaintiff and Defendant have adverse and antagonistic interests in the subject matter of the dispute, case, and/or controversy.
- 75. Plaintiff seeks a declaratory judgment that its past use and continued use of the INSTAPRINTS mark is not likely to cause dilution of Defendant's INSTAGRAM Marks under the Lanham Act, 15 U.S.C. § 1125(c).
- 76. Plaintiff further seeks a declaration that its past and continued use of the INSTAPRINTS mark has not and does not cause blurring of or tarnish Defendant's registered INSTAGRAM trademarks, nor does it cause any injury to Defendant under the Lanham Act.
- 77. In the alternative, Plaintiff seeks a declaration that Defendant's claims of trademark infringement and trademark dilution are barred by the equitable defenses of laches, estoppel, and acquiescence.
- 78. Defendant is prevented from objecting to or instituting any action or proceeding with respect to Plaintiff's use of registration of its INSTAPRINTS mark because Instagram has misused its trademark rights by attempting to enforce its rights beyond their lawful scope with the intent to stifle competition.

COUNT VI

DECLARATORY JUDGMENT ON EQUITABLE GROUNDS

79. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.

2728

26

///

STITES &
HARBISON PLLC
ATTORNEYS AT LAW

- 80. Plaintiff relied upon the Defendant's affirmative statements in the form of its terms of use that informed Pixels that it was permitted to adopt and use the INSTAPRINTS mark.

 Defendant thereby expressly consented to, if not encouraged, Pixels' adoption and use of the INSTAPRINTS mark and is therefore actually estopped from enforcing its rights against Pixels.
- 81. Defendant was aware of Plaintiff's use and promotion of its INSTAPRINTS mark since at least as early as May 2012 and affirmatively approved such use by Plaintiff.
- 82. Until the filing of the Opposition, Defendant did not object to Plaintiff's use and promotion of its INSTAPRINTS mark for nearly two years. In so doing, Defendant knowingly acquiesced to Pixels' adoption and use of its INSTAPRINTS mark.
- 83. Plaintiff relied on Defendant's unreasonable period of silence and inaction in continuing to use and promote its INSTAPRINTS mark.
- 84. Plaintiff relied on Defendant's encouragement of third parties, including Plaintiff itself, to use the component "INSTA" in using and promoting its services in connection with the INSTAPRINTS mark.
- 85. Plaintiff is unfairly prejudiced by Defendant's Opposition and would be further unfairly prejudiced by any further attempt by Defendant to institute any additional action or proceeding with respect to Plaintiff's use or registration of its INSTAPRINTS mark in connection with its business given Defendant's unreasonable delay.
- 86. Defendant is barred from objecting to or instituting any action or proceeding with respect to Plaintiff's use or registration of INSTAPRINTS marks in connection with its business, based on laches, acquiescence, estoppel, and/or other equitable principles.
- 87. Defendant is prevented from objecting to or instituting any action or proceeding with respect to Plaintiff's use of registration of its INSTAPRINTS mark because Instagram has misused its trademark rights by attempting to enforce its rights beyond their lawful scope with the intent to stifle competition.

PIXELS.COM, LLC V. INSTAGRAM COMPLAINT

STITES &
HARBISON PLLC
ATTORNEYS AT LAW

COUNT VII

VIOLATION OF ANTITRUST LAWS

(15 U.S.C. § 1115(b)(7); 15 U.S.C. § 2)

- 88. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 89. Defendant is using its trademark to violate the antitrust laws of the United States in violation of 15 U.S.C. § 1115(b)(7) and the Sherman Act, 15 U.S.C. § 2.
- Instagram's policy of allowing, or even encouraging, businesses based on the Instagram technical platform to incorporate the prefix "Insta" or the suffix "gram" reflected Instagram's understanding and tacit admission of the weakness of these "insta" and "gram" elements outside of Defendant's composite INSTAGRAM mark. Indeed, in a 2014 FAQ section on the Instagram website, Instagram indicated in response the question of where the INSTAGRAM mark derived from that "When we were kids we loved to play around with cameras. We loved how different types of old cameras marketed themselves as "instant" something we take for granted today. We also felt that the snapshots people were taking were kind of like telegrams in that they got sent over the wire to others so we figured why not combine the two?" A true and correct copy of these FAQ's of Instagram is attached hereto as Exhibit B. Therefore, by its own admission, Instagram has acknowledged that the component parts of its mark are descriptive and, hence, weak on their own.
- 91. Despite its knowledge about the inherent weakness in the component parts of its Instagram marks, Defendant has undertaken a campaign within the Trademark Office to engage in exclusionary behavior through oppositions and/or filing extensions of time relating to a large number of marks, the majority of which fall outside of Defendant's relevant market and that incorporate the inherently weak prefix "Insta" or inherently weak suffix "gram" and all give vastly differing commercial impressions, including: DOODIEGRAM 86/538809, INSTACAST 86/496,627 and INSTAEDU 86/233,316, MIRRORGRAM 85/829,301, LOKOGRAM GO GLOBAL BE LOCAL 86/413,092, FLIPAGRAM 86/042,264, PICTO-GRAM 85/728,954, PIX-O-GRAM 85/728,951, APPRECIGRAM 86/172,733, WEDSTAGRAM 86/184,707,

1	DATESTAGRAM 86/157,015, SELFIEGRAM 79/143,187, CENSORGRAM 86/182,362,
2	MEMORYGRAM 86/246,833, 86/255,635, PAINTAGRAM 86/091,233, KAVAGRAM
3	86/331,386, ADGRAM 86/308,589, SLIDERGRAM 86/345,267, SONGSTERGRAM
4	86/035,702, TATTYGRAM 86/002,070, TALLYGRAM 85/731,332, MIXTAGRAM
5	85/961,202, EVERGRAM 85/613,424, SKINAGRAM 85/833,439,WEBGRAMPRO 86/364,528,
6	DISAGRAM 86/386,622, HEALOGRAM 86/391,410, 86/391,408, 86/391,404,
7	SHOWMEGRAM 86/397,280, ABSTAGRAM 86/377,951, SATGRAM 86/447,205,
8	FUTUREGRAM 86299,301, HASHGRAM 86/254,609, TAGAGRAM 86/158,345,
9	KARAOKEGRAM 85/916,630, TERRAGRAM 86/115,364, INSTAJAMZ 86/073,614,
10	INSTASTIX 86/030,687, INSTASNAGG 86/248,253, INSTACLIQUE 86/241,091,
11	INSTACELEBS 86/290,902, INSTA PHOTO BOOTH 86/335,622, INSTAMOUR 86/122,354,
12	INSTAEDU 86/233,316, INSTAPICS 86/218,129, INSTASONG 86/131,994, INSTAVEME
13	86/227,189, INSTALOVE 86/433,541, INSTADME 86/229,331, INSTAGATOR 86/441,518,
14	INSTAPRAYER 86/022,405, INSTAAPPT 86/414,621, INSTAPLY 85/850,549, INSTAMEET
15	85/826,116, INSTACURITY 85/882,797, INSTAPICFRAME 85/857,016; 85/933,904,
16	INSTACUBE 85/960,968, INSTAFRAME 85/857,021, INSTAGOOD 85/883,219,
17	INSTABANG 86/036,656, INSTAPEER 86/156,316, INSTRUCTAGRAM 85/732,588,
18	INSTAFAN 85/827,826, INSTAGRILLE 85/619,623.
19	92. Upon information and belief, the Defendant's opposition notices and extensions of
20	time to oppose filed have been accompanied by demands that the applicants abandon their marks
21	and adopt new marks, despite their adoption of the inherently weak components of either "insta"
22	or "gram." Such claims are therefore inherently baseless. This is particularly true given
23	Defendant's own longstanding history of not only allowing, but encouraging, companies using
24	the Instagram technical platform to use the prefix "insta" or the suffice "gram" in their marks.
25	Instagram's latest campaign against such uses, and even uses that have nothing to do with
26	Instagram's business and do not incorporate any Instagram APIs, underscores the lack of merit of
27	Instagram's current litigation campaign.

28

LOUISVILLE

9

7

10 11

12

13

14 15

16

23 24

25

26

27

28

17 18 19 20 doctrine. 21 97. 22

- 93. Upon information and belief, Defendant has thus undertaken to oppose many of these marks in an effort to restrict competition by suppressing business and reserving for itself a future retail product market. A complete list of Defendant's oppositions with accompanying goods and services of the opposed applications is attached hereto as Exhibit G.
- 94. The Defendant is therefore using the INSTAGRAM mark itself as the instrument to extend its trademark monopoly beyond its legal limits through trademark opposition notices and attendant enforcement efforts.
- 95. Defendant's conduct in bringing a series of *inter partes* proceedings accompanied by implied threats of litigation constitute an antitrust violation because a large number of the proceedings are objectively baseless and were initiated with the intent to interfere directly with Plaintiff's business and/or to monopolize a particular industry. As such, Defendant's actions satisfy the "sham" exception to Noerr-Pennington immunity.
- 96. The Defendant is engaging in other anti-competitive acts with respect to the components "INSTA" and "GRAM," including threatening communications with the specific intent of stifling competition and reserving future business to itself, resulting in actual damages to Plaintiff and others through expenses incurred to defend against opposition challenges at the U.S. Patent and Trademark Office, and potential uncertainty regarding further investment in Plaintiff's business and other businesses associated with the opposed marks. These actions have been brought in bad faith and to harass and therefore are not shielded by the Noerr-Pennington
- The result of Defendant's actions has been that a number of businesses that were operating lawfully have abandoned their trademark applications including LOKOGRAM offering advertising services through electronic media; ABSTAGRAM offering computer medical software and photo software for modifying photos of your abdominal muscles; WEBGRAMPRO offering on-line software to facilitate online forums for meetings, classes, etc.; INSTAPICFRAME offering computer software for video and photo image processing; INSTACLIQUE offering software that allows sellers to promote goods by publishing user content; HASHGRAM offering advertisement services featuring sponsored tags and images;

INSTAVEME offering software for creating, uploading, and editing video memes;
APPRECIGRAM offering online non-downloadable software to facilitate the creation of greeting
cards, announcements, slideshows, and invitations; TAGAGRAM offering services to transmit
electronic pet photos; TERRAGRAM offering online social networking services; INSTAJAMZ
offering software that adds music and sound effects to video; INSTASTIX offering personalized
decorative household magnets; TATTYGRAM offering social online services related to tattoo art
TALLYGRAM offering online software that facilitates social introductions; INSTAMEET
offering online video conferencing software.

- 98. Upon information and belief, Defendants' series of legal proceedings, many of which were initiated without probable cause, are not brought with a genuine interest in redressing grievances, but as a pattern of litigation brought for the purpose of harassment and/or for injuring or preventing lawful competition.
- 99. Defendant's objectively baseless trademark challenges and threats, its pattern of sham opposition activities undertaken in bad faith have reduced and injured and will continue to reduce and injure competition in the relevant marks or submarkets.

COUNT VIII

UNFAIR COMPETITION

(Cal. Bus. & Prof. Code § 17200)

- 100. Plaintiff incorporates by reference the allegations in the preceding paragraphs of the Complaint.
- 101. Defendant is using its INSTAGRAM marks to violate the antitrust laws of the United States in violation of 15 U.S.C. § 1115(b)(7) and the Sherman Act, 15 U.S.C. § 2.
- 102. Defendant has undertaken a campaign within the Trademark Office to engage in exclusionary behavior through opposition and/or filing extensions of time relating to a large number of marks, the majority of which fall outside of Defendant's relevant market, including: DOODIEGRAM 86/538809, INSTACAST 86/496,627 and INSTAEDU 86/233,316, MIRRORGRAM 85/829,301, LOKOGRAM GO GLOBAL BE LOCAL 86/413,092, FLIPAGRAM 86/042,264, PICTO-GRAM 85/728,954, PIX-O-GRAM 85/728,951,

ARBISON PLLC

TTORNEYS AT LAW

1	APPRECIGRAM 86/172,733, WEDSTAGRAM 86/184,707, DATESTAGRAM 86/157,015,
2	SELFIEGRAM 79/143,187, CENSORGRAM 86/182,362, MEMORYGRAM 86/246,833,
3	86/255,635, PAINTAGRAM 86/091,233, KAVAGRAM 86/331,386, ADGRAM 86/308,589,
4	SLIDERGRAM 86/345,267, SONGSTERGRAM 86/035,702, TATTYGRAM 86/002,070,
5	TALLYGRAM 85/731,332, MIXTAGRAM 85/961,202, EVERGRAM 85/613,424,
6	SKINAGRAM 85/833,439,WEBGRAMPRO 86/364,528, DISAGRAM 86/386,622,
7	HEALOGRAM 86/391,410, 86/391,408, 86/391,404, SHOWMEGRAM 86/397,280,
8	ABSTAGRAM 86/377,951, SATGRAM 86/447,205, FUTUREGRAM 86299,301,
9	HASHGRAM 86/254,609, TAGAGRAM 86/158,345, KARAOKEGRAM 85/916,630,
10	TERRAGRAM 86/115,364, INSTAJAMZ 86/073,614, INSTASTIX 86/030,687, INSTASNAGO
11	86/248,253, INSTACLIQUE 86/241,091, INSTACELEBS 86/290,902, INSTA PHOTO BOOTH
12	86/335,622, INSTAMOUR 86/122,354, INSTAEDU 86/233,316, INSTAPICS 86/218,129,
13	INSTASONG 86/131,994, INSTAVEME 86/227,189, INSTALOVE 86/433,541, INSTADME
14	86/229,331, INSTAGATOR 86/441,518, INSTAPRAYER 86/022,405, INSTAAPPT 86/414,621
15	INSTAPLY 85/850,549, INSTAMEET 85/826,116, INSTACURITY 85/882,797,
16	INSTAPICFRAME 85/857,016; 85/933,904, INSTACUBE 85/960,968, INSTAFRAME
17	85/857,021, INSTAGOOD 85/883,219, INSTABANG 86/036,656, INSTAPEER 86/156,316,
18	INSTRUCTAGRAM 85/732,588, INSTAFAN 85/827,826, INSTAGRILLE 85/619,623.
19	103. Upon information and belief, the Defendant's opposition notices and extensions of
20	time to oppose filed have been accompanied by demands that the applicants abandon their marks
21	and adopt new marks, despite their adoption of the inherently weak components of either "insta"
22	or "gram." Such claims are therefore inherently baseless. This is particularly true given
23	Defendant's own longstanding history of not only allowing, but encouraging, companies using
24	the Instagram technical platform to use the prefix "insta" or the suffice "gram" in their marks.
25	Instagram's latest campaign against such uses, and even uses that have nothing to do with
26	Instagram's business and do not incorporate any Instagram APIs, underscores the lack of merit of

27

Instagram's current litigation campaign.

104. Upon information and belief, Defendant has thus undertaken to oppose many of these marks in an effort to restrict competition by suppressing business and reserving for itself a future retail product market. A complete list of Defendant's oppositions with accompanying goods and services of the opposed applications is attached hereto as Exhibit G.

- 105. The Defendant is therefore using the INSTAGRAM mark itself as the instrument to extend its trademark monopoly beyond its legal limits through trademark opposition notices and attendant enforcement efforts.
- 106. Defendant's conduct in bringing a series of *inter partes* proceedings accompanied by implied threats of litigation constitute an antitrust violation because a large number of the proceedings are objectively baseless and were initiated with the intent to interfere directly with Plaintiff's business and/or to monopolize a particular industry. As such, Defendant's actions satisfy the "sham" exception to Noerr-Pennington immunity.
- 107. The Defendant is engaging in other anti-competitive acts with respect to the components "INSTA" and "GRAM," including threatening communications with the specific intent of stifling competition and reserving future business to itself, resulting in actual damages to Plaintiff and others through expenses incurred to defend against opposition challenges at the U.S. Patent and Trademark Office, and potential uncertainty regarding further investment in Plaintiff's business and other businesses associated with the opposed marks. These actions have been brought in bad faith and to harass and therefore are not shielded by the Noerr-Pennington doctrine.
- operating lawfully have abandoned their trademark applications including LOKOGRAM offering advertising services through electronic media; ABSTAGRAM offering computer medical software and photo software for modifying photos of your abdominal muscles; WEBGRAMPRO offering on-line software to facilitate online forums for meetings, classes, etc.; INSTAPICFRAME offering computer software for video and photo image processing; INSTACLIQUE offering software that allows sellers to promote goods by publishing user content; HASHGRAM offering advertisement services featuring sponsored tags and images;

STITES &
HARBISON PLLC
ATIORNEYS AT LAW

INSTAVEME offering software for creating, uploading, and editing video memes;

APPRECIGRAM offering online non-downloadable software to facilitate the creation of greeting cards, announcements, slideshows, and invitations; TAGAGRAM offering services to transmit electronic pet photos; TERRAGRAM offering online social networking services; INSTAJAMZ offering software that adds music and sound effects to video; INSTASTIX offering personalized decorative household magnets; TATTYGRAM offering social online services related to tattoo art; TALLYGRAM offering online software that facilitates social introductions; INSTAMEET offering online video conferencing software.

- 109. Upon information and belief, Defendants' series of legal proceedings, many of which were initiated without probable cause, are not brought with a genuine interest in redressing grievances, but as a pattern of litigation brought for the purpose of harassment and/or for injuring or preventing lawful competition.
- 110. Defendant's objectively baseless trademark challenges and threats, its pattern of sham opposition activities undertaken in bad faith have reduced and injured and will continue to reduce and injure competition in the relevant marks or submarkets.
- 111. Defendant's acts, as alleged above, constitute unlawful and/or unfair business practices in violation of the California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200, et seq. Defendants' acts are unlawful and/or unfair under the UCL.
- Plaintiff irreparable injury. Plaintiff is informed and believes that unless said conduct is enjoined by this Court, Defendant will continue and expand those activities to the continued and irreparable injury of Plaintiff and the free market. This injury includes but is not limited to harm to free competition that cannot be remedied through damages, and Plaintiff has no adequate remedy at law. Plaintiff is entitled to a permanent injunction restraining and enjoining Defendant and its agents, servants, employees, and all persons acting thereunder, in concert with, or on their behalf, from engaging in the anticompetitive acts alleged herein.

10 11

12 13

14 15

16

17 18

19

20

21

22 23

24

25

26

27

28

HARBISON PLLC TTORNEYS AT LAW

As a direct and proximate result of Defendant's statutory unfair competition under 113. federal antitrust laws, Defendant has been unjustly enriched in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for:

- 1. A Declaratory Judgment that:
- Plaintiff's past, present, and continued use and registration of the mark a. INSTAPRINTS in connection with its business does not and will not infringe or dilute any of Instagram's trademark or trade name rights, or unfairly complete with Defendant, or falsely designate the origin of Plaintiff's services, or otherwise constitute a violation of any of Defendant's rights;
- b. Defendant is prevented from enforcing its rights in the INSTAGRAM mark against Plaintiff as the result of equitable defenses laches, estoppel and/or acquiescence.
- Defendant, its officers, agents, servants, employees and attorneys, and those c. persons in active concert or participation or otherwise in privity with them, be permanently enjoined and restrained from instituting, prosecuting, or threatening any action against Plaintiff, or any of its affiliates, or anyone in privity with Plaintiff, with respect to Plaintiff's use or registration of INSTAPRINTS in connection with its business;
- A finding that Defendant's conduct violates Section 2 of the Sherman Act, 15 2. U.S.C. § 2.
- A finding that Defendant's conduct violates Section 17200 of the California 3. Business & Professions Code.
- 4. Damages sustained by Plaintiff as the proximate result of Defendant's violation of the antitrust laws;
- Damages sustained by Plaintiff as the proximate result of Defendant's violation of 5. California Business & Professions Code § 17200;
- Treble the amount of damages sustained by Plaintiff as the proximate result of 6. Defendant's violation of the antitrust laws;

- 1	1				
1	7. Plaintiff's costs and reasonable attorneys' fees incurred in bringing this action				
2	against Defer	against Defendant for violation of the antitrust laws; and			
3	8. Such other and further relief as the Court may deem just and proper.				
4	Dated: Augus	st 6, 2015		Respectfully	submitted,
5				PIXELS.CO	M, LLC
6					
7					
8				By:/s/_V	ijay K. Toke
9				Vijay	K. Toke
10				COBALT LL 918 Parker S	LP treet, Bldg. A21
11				Berkeley, CA Telephone:	
12				Facsimile: Email:	(510) 295-2401
13				Liiigii.	vijay@cobaltlaw.com matt@cobaltlaw.com
14				Ioel T. Beres	s, Cal. Bar No. 125890
15				Amy Cahill ((to be admitted <i>pro hac vice</i>) ARBISON PLLC
16				400 West Ma Suite 1800	
17					(Y 40202-3352 (502) 587-3400
18				Facsimile: E-mail:	(502) 587-6391 jberes@stites.com
19				₽-man.	acahill@stites.com
20				Mari-Elise Ta	aube (to be admitted <i>pro hac vice)</i> [ARBISON PLLC
21				1199 North F Suite 900	
22				Alexandria, V Telephone:	VA 22314 (703) 837-3932
23				Facsimile: E-mail:	(703) 518-2952 mtaube@stites.com
24				Attorneys for	,
25				PIXELS.COM	M, LLC
26					
27					
28					
LLC			- 24	1 -	PIXELS.COM, LLC V. INSTAGRAM

STITES & HARBISON PLLC
ATTORNEYS AT LAW

1 **DEMAND FOR JURY TRIAL** 2 Plaintiff Pixels.com, LLC hereby demands a jury trial as provided by Rule 38(a) of the 3 Federal Rules of Civil Procedure. 4 Dated: August 6, 2015 Respectfully submitted, 5 PIXELS.COM, LLC 6 7 8 By: /s/ Vijay K. Toke 9 Vijay K. Toke 10 COBALT LLP 918 Parker Street, Bldg. A21 11 Berkeley, CA 94710 Telephone: (510) 841-9800 12 Facsimile: (510) 295-2401 Email: vijay@cobaltlaw.com 13 matt@cobaltlaw.com 14 Joel T. Beres, Cal. Bar No. 125890 15 Amy Cahill (to be admitted *pro hac vice*) STITES & HARBISON PLLC 16 400 West Market Street **Suite 1800** 17 Louisville, KY 40202-3352 Telephone: (502) 587-3400 18 Facsimile: (502) 587-6391 E-mail: jberes@stites.com 19 acahill@stites.com 20 Mari-Elise Taube (to be admitted pro hac vice) STITES & HARBISON PLLC 21 1199 North Fairfax St. Suite 900 22 Alexandria, VA 22314 (703) 837-3932 Telephone: 23 Facsimile: (703) 518-2952 E-mail: mtaube@stites.com 24 Attorneys for Plaintiff, 25 PIXELŠ.COM, LLC 26 27 355247:12:ALEXANDRIA 28

STITES &
HARBISON PLLC
ATTORNEYS AT LAW

EXHIBIT A



INSTAGRAM API TERMS OF USE

Thank you for using the Instagram application programming interfaces (the "Instagram APIs"). By using the Instagram APIs, you agree to the terms below. If you disagree with any of these terms, instagram does not grant you a license to use the instagram APIs. We reserve the right to update and change these terms from time to time without notice. You can always find the most recent version of these terms here http://www.instagram.com/logabterms/api/

Your incense to the Instagram APIs under these terms centinues until it is terminated by either party. You may terminate the license by discontinuing use of all or any of the Instagram APIs. Instagram may terminate automatically if (i) you violate any of these terms.

(ii) Instagram publicly posts a written notice of termination on Instagram com, (iii) Instagram sends a written notice of termination to you, or (iv) Instagram disables access to the Instagram APIs to you

1, LICENSED USES AND RESTRICTIONS

The Instagram APIs are extractly instagram, (hereinafter "Instagram") and are licensed to you on a worldvide (except as imited below), non-exclusive, non-sublicenseable basis on the terms and conditions set forth herein. These terms define legal use of the Instagram APIs, all updates, revisions, substitutions, and any copies of the Instagram APIs made by or for you. Instagram user photos are owned by the users (the photographers) and not by Instagram. All rights not expressly granted to you are reserved by Instagram.

Comply with the instagram Terms of Use at http://www.instagram.com/legal/terms

Comply with any requirements or restrictions imposed on usage of the photos by their respective owners. Remember, Instagram doesn't own the images - Instagram users do Although the Instagram APIs can be used to provide you with access to Instagram user photos, neither instagram's provision of the Instagram APIs to you nor your use of the Instagram APIs override the photo owners' requirements and restrictions, which may include "all rights reserved" notices (attached to each photo by default when uploaded to Instagram). Creative Commons licenses or other terms and conditions that may be agreed upon between you and the owners. In ALL cases, you are solely responsible for making use of Instagram photos in compliance with the photo owners' requirements or restrictions.

Comply with any other terms and conditions a user has attached to his or her photo. For example, if a user marks a photo as "private" after using your service, your application must reflect those changes as soon as reasonably possible. If your application has any cached copies of photos that have become "private," you must remove as soon as

Remove from your application within 24 hours any instagram user's photos or other information that the owner of the photo asks you to remove

Disclose in your application through a privacy policy or otherwise displayed in the footer of each page, how you collect, use, store, and disclose data collected from visitors, including, where applicable, that third parties (including advertisers) may serve content and/or advertisements and collect information directly from visitors and may place or recognize cookies on visitors' browsers.

b. You shall not:

Use instagram APIs for any application that replicates or attempts to replace the essential user experience of instagram com or the Instagram iPhone App

Use the Instagram API to span), or otherwise harass users with unwanted likes, comments or other actions

Use the Instagram API to post automated content to instagram, including likes and comments that were not initiated and entered by an instagram user

Attempt to cloak or conceal your identity or your application's identity when requesting authorization to use Instagram APIs.

Display more than 30 Instagram photos per page in your application or use an unreasonable amount of bandwidth

Cache or store any instagram user photos other than for reasonable periods in order to provide the service you are providing to instagram users

Use Instagram APIs for any application that constitutes, promotes or is used in connection with spyware, adware, other malicious programs or code

Use Instagram APIs in any manner or for any purpose that violates any law or regulation, any right of any person, including but not limited to intellectual property rights, rights of privacy, or rights of personality,

Use instagram as a generic image hosting service for bannar advertisements, graphics, etc.

Use instagram APIs in a manner that adversely impacts the stability of instagram com servers or adversely impacts the behavior of other applications using the Instagram APIs Further, we reserve the right to rate limit or block applications that make a large number of calls to the API that are not primarily in response to direct user ac

Sell, lease, or sublicense instagram APIs or access thereto or derive revenues from the use or provision of Instagram APIs, whether for direct commercial or monetary gain or

2. ATTRIBUTION

You shall not use "Instagram" in the hostname of your application, i.e. instagram.mydomain.com

You shall place the following notice prominently on your application: "This product uses the Instagram API but is not endorsed or certified by Instagram."

You may not use the Instagram logo without specific written permission from Instagram.

Any use of the Instagram logo in your application shall be less prominent than the logo or mark that primarily describes the application and your use of the instagram logo shall not imply any endorsement by Instagram.

3. OWNERSHIP AND RELATION SHIP OF PARTIES.
The Instagram APIs may be protected by copyrights, tradamarks, service marks, international treaties, and/or other proprietary rights and laws of the U.S. and other countries.
Instagram's rights apply to the Instagram APIs and all output and executables of the Instagram APIs, excluding any software components developed by you which do not hemselves incorporate the Instagram APIs or any output or executables of the Instagram APIs. You agree to abide by all applicable proprietary rights laws, and other laws, as well as any additional copyright notices or restrictions contained in these terms, Instagram owns all rights, tille, and interest in and to the Instagram APIs. These terms grent you no right, fills, or interest in any intellectual property owned or licensed by Instagram, including (but not limited to) the Instagram APIs and Instagram trademarks.

4. SUPPORT.

Instagram may elect to provide you with support or modifications for the Instagram APIs (collectively, "Support"), in its sole discretion, and may terminate such Support at any time without notice by you. Instagram may change, suspend, or discontinue any aspect of the Inetagram APIs at any time, including the availability of any Instagram APIs. Instagram may also impose limits on certain features and services or restrict your access to parts or all of the Instagram APIs or the Instagram Web site without notice or liability.

5. FEES AND PAYMENTS.

Instagram is committed to free and open access to our APIs for non-commercial purposes. However, providing the APIs does have real costs for instagram. For uses of instagram APIs over a certain rate or for certain types of commercial applications, instagram reserves the right to charge fees for future use of or access to the instagram APIs.

6. DISCLAIMER OF ANY WARRANTY.
SOME OF THE INSTAGRAM APIS MAY BE EXPERIMENTAL AND NOT TESTED IN ANY MANNER INSTAGRAM DOES NOT REPRESENT OR WARRANT THAT ANY
INSTAGRAM APIS ARE FREE OF INACCURACIES, ERRORS, BUGS, OR INTERRUPTIONS, OR ARE RELIABLE, ACCURATE, COMPLETE. OR OTHERWISE VALID.

THE INSTAGRAM APIS ARE PROVIDED "AS IS" WITH NO WARRANTY, EXPRESS OR IMPLIED, OF ANY KIND AND INSTAGRAM EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPDSE, AVAILABLILTRY, SECURITY, TITLE AND/OR NON-INFRINGEMENT.

YOUR USE OF INSTAGRAM APIS IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM THE USE OF ANY INSTAGRAM APIS INCLUDING, BUT NOT LIMITED TO, ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA.

7. DMITATION OF LIABILITY

A CONTROL OF CONTROL OF THE CONTROL OF THE INSTAGRAM SHALL NOT, UNDER ANY CIRCUMSTAGRAM SHALL NOT, UNDER ANY CIRCUMSTAGRAM FOR THE INSTAGRAM APIS, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY.

TORT (INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR OTHERWISE), DR ANY OTHER PECUNIARY LOSS, WHETHER OR NOT INSTAGRAM HAS BEEN ADVISED. OF THE POSSIBILITY OF SUCH DAMAGES, UNDER NO CIRCUMSTANCES SHALL INSTAGRAM BE LIABLE TO YOU FOR ANY AMOUNT

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF SECTIONS 7 AND 8 MAY NOT APPLY TO YOU

To the maximum extent permitted by applicable law, you hereby release and waive all claims against instagram, and its subsidiaries, affiliates, officers, agents, licensors, cobranders or other partners, and employees from any and all liability for claims, darmages (actual and/or consequential) costs and expenses (including litigation costs and altomeys' fees) of every kind and nature, arising from or in any way related to your use of instagram APIs. If you are a California resident, you waive your rights under California Chill Code § 1542, which states. "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release.

Case3:15-cv-03610-JSC Document1-1 Filed08/06/15 Page3 of 3

which if known by him triust have materially affected his settlement with the debtor." You understand that any fact relating to any matter covered by this release may be found to be other than now believed to be true and you accept and assume the risk of such possible differences in fact in addition, you expressly waive and relinquish any and all rights and benefits which you may have under any other state or federal statute or common law principle of similar effect, to the fullest extent permitted by law

10, HOLD HARMLESS AND INDEMNITY

To the maximum extent permitted by applicable law, you agree to hold harmless and indemnify instagram and its subsidiaries, affiliates, officers, agents, licensors, co-branders or other partners, and employees from and against any fixed party claim ansing from or in any way related to your use of instagram APIs, including any liability or expense arising from all claims, losses, damages (actual and/or consequentials, suits, sudgments, intigation costs and attorneys fees, of every kind and nature. Instagram shall use good faith efforts to provide you with written notice of such claim, suit or action.

11. GENERAL TERMS

Relationship of the Parties. Notwithstanding any provision hereof, for all purposes of the Terms of Use, you and Instagram shall be and act independently and not as partner, joint venturer, agent, employee or employer of the other. You shall not have any authority to assume or create any obligation for or on behalf of instagram, express or implied, and you shall not altempt to bind instagram to any contract

Invalidity of Specific Terms If any provision of the Terms of Use is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision and the other provisions of such documents remain in full force and effect.

Location of Lawsuit and Civoice of Law. The Terms of Use and the relationship between you and Instagram shall be governed by the laws of the State of California without regard to its conflict of law provisions. You and Instagram agree to submit to the personal jurisdiction of the courts located within the county of Santa Clare. California.

No Waiver of Rights by Instagram. Instagram's failure to exercise or enforce any right or provision of the Terms of Use shall not constitute a waiver of such right or provision.

Miscelaneous. The section headings and subheadings contained in this agreement are included for convenience only, and shall not limit or otherwise affect the terms of the Terms of Use. Any construction or interpretation to be made of the Terms of Use shall not be construed against the drafter. The Terms of Use construte the emire agreement between instagram and you with respect to the subject matter hereof.

INSTAGRAM API TRADEMARK AND BRAND GUIDELINES

- . You are not allowed to use the word "Instagram". "IG" or any variation in your product name, domain name, or images.
- You are not ellowed to use the instagram icon or logo unless specifically allowed in the developer documentation.
- If you do incorporate Instagram's logos, you must include the following statement clearly on your website. This [application/website] uses the Instagram(m) API and is not
 endorsed or certified by Instagram or Burbn, inc. All Instagram(m) logoes and Irademarks displayed on this [application/website] are proprty of Burbn, inc.*
- . While you cannot use the word "Instagram" or "IG" in your product's name, it's ok to use one (but not both) of the following, "losta" or "gram"

Note that we reserve the right to reject any use of these terms in connection with the use of the Instagram API.

EXHIBIT B

Case3:15-cv-03610-JSC Document1-2 Filed08/06/15 Page2 of 2

Asolit FAQ Company This is a short list of our most frequently asked questions. For more information about Instagram, or if you need support, Jobs please visit our support center. What is instagram? Instagram is a fun and quirkly way to share your life with friends through a series of pictures. Shap a photo with your DECRE mobile phone, then choose a filter to transform the image into a memory to keep around forever. We're building instagram to allow you to experience moments in your friends' lives through pictures as they happen. We imagine a Terms world mare connected through photos. Privacy How much is your app? \$0.00 - available for free in the Apple App Store and Google Play store **API Terms** Where does the name come from? Libraries When we were kids we loved playing around with cameras. We loved how different types of old cameras marketed themselves as "instant" - something we take for granted today. We also felt that the snapshots people were taking were kind of like telegrams in that they got sent over the wire to others - so we figured why not combine the two? How did the idea come about? We love taking photos. We always assumed taking interesting photos required a big bulky camera and a couple years of art school. But as mobile phone cameras got better and better, we decided to challenge that assumption. We created instagram to solve three simple problems: 1. Mobite photos always come out looking mediocre. Our awesome looking filters transform your photos into professional-looking snapshots. 2. Sharing on multiple platforms is a pain - we help you take a picture once, then share it (instantly) on multiple Most uploading experiences are clumsy and take forever - we've optimized the experience to be tast and efficient. What other services are you compatible with? Currently, you can share your photos on a photo-by-photo basis on Flickr, Facebook, and Twitter. Additionally, if you specify a location with your photo, you can opt to have us check you in on Foursquare. Going forward, we plan on supporting additional services but have nothing else to announce at this time. Absolutely, yes, if you're a talented engineer or designer we want to talk to you. Check out our jobs page. I have a technical problem or support issue I need resolved, who do I email? The best way to get in touch with us is to visit our support center. is there an API or developer program? Developers can register for our apliat our developer site. How does privacy work? We have adopted a follower model that means if you're "public" on instagram, anyone can subscribe to follow your photos. We do, however, have a special private option. In this mode, a user can make sure he/she must approve all follow requests before they go through. Who can see my photos? All photos are public by default which means they are visible to anyone using instagram or on the instagram.com website. If you choose to make your account private, then only people who follow you on Instagram will be able to see your photos. How can I print my photos? We save all the photos you process with instagram to your camera roll. You can then sync with your computer and print as many as you'd like. When are you going to make the app for Blackberry, Windows Phone 7, iPad, etc? We are currently working on making the IPhone and Android experiences as solid as possible. Only then will we

consider other platforms, but currently we have nothing to announce.

EXHIBIT C

Case3:15-cv-03610-JSC Document1-3 Filed08/06/15 Page2 of 9

Generated on: This page was generated by TSDR on 2015-08-05 12:52:36 EDT

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85426271

Application Filing Date: Sep. 19, 2011

US Registration Number: 4170675

Registration Date: Jul. 10, 2012

Register: Principal

Mark Type: Service Mark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: Jul. 10, 2012 Publication Date: Apr. 24, 2012

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Translation: The word "INSTAGRAM" has no meaning in a foreign language.

Related Properties Information

International Registration 1129314

Number:

International A0028862/1129314

Application(s) /Registration(s) Based on this Property:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and Asterisks *..* identify additional (new) wording in the goods/services.

For: Providing a web site that gives users the ability to upload photographs; technical support services, namely, providing help desk services in the field of computer software, namely, providing users with instructions and advice on the use of downloadable computer software, provided online and via e-mail; computer services, namely, providing an interactive website featuring technology that allows users to manage their online photograph and social networking accounts

International Class(es): 042 - Primary Class U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(a)

First Use: Oct. 06, 2010 Use in Commerce: Oct. 06, 2010

Basis Information (Case Level)

Filed Use: Yes Currently Use: Yes Amended Use: No Currently iTU: No Amended ITU: No Filed ITU: No Currently 44D: No Amended 44D: No Filed 44D: No Filed 44E: No Currently 44E: No Amended 44E: No

Currently 66A: No Filed 66A: No Filed No Basis: No Currently No Basis: No

Current Owner(s) Information

Owner Name: INSTAGRAM, LLC

Owner Address: 1601 WILLOW ROAD

MENLO PARK, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Anthony J. Malutta

Docket Number: 97498-936971

Attorney Primary Email tmadmin@kilpatricktownsend.com

Attorney Email Yes

Authorized:

Correspondent

Correspondent Anthony J. Malutta
Name/Address: Kilpatrick Townsend & Stockton LLP
Two Embarcadero Center, 8th Floor
San Francisco, CALIFORNIA 94111

UNITED STATES

Fax: 415-576-0300

Phone: 415-576-0200

Correspondent e-mail: tmadmin@kilpatricktownsend.com amalutta@kilp atricktownsend.com kkappes@kilpatricktownsend. Correspondent e-mail Yes Authorized:

com mmartinenko@kilpatricktownsend.com

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 25, 2015	ATTORNEY REVOKED AND/OR APPOINTED	
Mar. 25, 2015	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Sep. 22, 2014	COUNTERCLAIM OPP. NO. 999999	217238
Jul. 10, 2013	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 20, 2012	ATTORNEY REVOKED AND/OR APPOINTED	
Dec. 20, 2012	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Nov. 21, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Oct. 24, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Jul. 10, 2012	REGISTERED-PRINCIPAL REGISTER	
Apr. 24, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Apr. 24, 2012	PUBLISHED FOR OPPOSITION	
Apr. 04, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Mar. 16, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	70138
Mar. 14, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 14, 2012	TEAS/EMAIL CORRESPONDENCE ENTERED	70138
Mar. 14, 2012	CORRESPONDENCE RECEIVED IN LAW OFFICE	70138
Feb. 28, 2012	ASSIGNED TO LIE	70138
Feb. 10, 2012	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 08, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Feb. 03, 2012	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Feb. 03, 2012	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 09, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jan. 09, 2012	NON-FINAL ACTION E-MAILED	6325
Jan. 09, 2012	NON-FINAL ACTION WRITTEN	76838
Jan. 05, 2012	ASSIGNED TO EXAMINER	76838
Sep. 23, 2011	NOTICE OF PSEUDO MARK MAILED	
Sep. 22, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Sep. 22, 2011	NEW APPLICATION ENTERED IN TRAM	verkenningen vor geg op men verken i de fan de f

TM Staff and Location Information

Case3:15-cv-03610-JSC Document1-3 Filed08/06/15 Page4 of 9

Current Location: PUBLICATION AND ISSUE SECTION Date in Location: Jul. 10, 2012

Assignment Abstract Of Title Information

Registrant: INSTAGRAM, INC. Total Assignments: 3

Assignment 1 of 3

Conveyance: CHANGE OF NAME

Reel/Frame: 4710/0689

Date Recorded: Feb. 03, 2012

Supporting Documents: assignment-tm-4710-0689.pdf

Name: BURBN, INC.

Legal Entity Type: CORPORATION

Name: INSTAGRAM, INC.

Assignee

Legal Entity Type: CORPORATION

Address: 181 SOUTH PARK AVENUE

SAN FRANCISCO, CALIFORNIA 94107

Correspondent Name: STACY E. DON

Correspondent Address: 2050 MAIN STREET, SUITE 1100

ORRICK, HERRINGTON & SUTCLIFFE LLP

Domestic Representative - Not Found

Assignment 2 of 3

Conveyance: MERGER EFFECTIVE 08/31/2012

Reel/Frame: 4883/0974

Date Recorded: Oct. 18, 2012

Supporting Documents: assignment-tm-4883-0974.pdf

Name: INSTAGRAM, INC.

Legal Entity Type: CORPORATION

Name: IRIS ACQUISITION SUB I, LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

Address: 1601 WILLOW ROAD

MENLO PARK, CALIFORNIA 94025

Correspondent Name: AARON FENNIMORE C/O COOLEY LLP

Correspondent Address: 777 6TH STREET, NW, SUITE 1100

WASHINGTON, DC 20001

Domestic Representative - Not Found

Conveyance: CHANGE OF NAME

Reel/Frame: 4900/0369

Date Recorded: Nov. 14, 2012

Supporting Documents: assignment-tm-4900-0369.pdf

Name: IRIS ACQUISITION SUB 1, LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

Assignee

Name: INSTAGRAM, LLC Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

State or Country Where DELAWARE

Organized:

Organized:

Pages: 4

Assignor

Execution Date: Jan. 24, 2012

State or Country Where DELAWARE

Organized:

State or Country Where DELAWARE

Organized:

Correspondent

IRVINE, CA 92614

Pages: 6

Assignor

Execution Date: Mar. 13, 2012

State or Country Where DELAWARE

Organized:

State or Country Where DELAWARE

Organized:

Correspondent

Assignee

Assignment 3 of 3

Assignor

Pages: 4

Execution Date: Sep. 12, 2012

Case3:15-cv-03610-JSC Document1-3 Filed08/06/15 Page5 of 9

Address: 1601 WILLOW ROAD MENLO PARK, CALIFORNIA 94025

Correspondent

Correspondent Name: AARON FENNIMORE C/O COOLEY LLP Correspondent Address: 777 6TH STREET, NW, SUITE 1100 WASHINGTON, DC 20001

Domestic Representative - Not Found

Case3:15-cv-03610-JSC Document1-3 Filed08/06/15 Page6 of 9

Generated on: This page was generated by TSDR on 2015-08-05 12:46:29 EDT

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85426267

Application Filing Date: Sep. 19, 2011

US Registration Number: 4146057

Registration Date: May 22, 2012

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Status Date: May 22, 2012

Publication Date: Mar. 06, 2012

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Translation: The wording "INSTAGRAM" has no meaning in a foreign language.

Related Properties Information

International Registration 1129314

Number:

this Property:

International A0028862/1129314

Application(s) /Registration(s) Based on

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and

Asterisks *..* identify additional (new) wording in the goods/services.

For: Downloadable computer software for modifying the appearance and enabling transmission of photographs

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 1(a)

Filed No Basis: No

Basis Information (Case Level)

Filed Use: Yes Currently Use: Yes Amended Use: No Filed ITU: No Currently ITU: No Amended ITU: No Filed 44D: No Currently 44D: No Amended 44D: No Filed 44E: No Currently 44E: No Amended 44E: No Filed 66A: No Currently 66A: No

Current Owner(s) Information

Currently No Basis: No

Owner Name: INSTAGRAM, LLC

Owner Address: 1601 WILLOW ROAD MENLO PARK, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Anthony J. Malutta

Docket Number: 97498-936966

Attorney Primary Email tmadmin@kilpatricktownsend.com

Attorney Email Yes Authorized:

Address:

Correspondent

Correspondent Anthony J. Malutta

Name/Address: Kilpatrick Townsend & Stockton LLP
Two Embarcadero Center, 8th Floor
San Francisco, CALIFORNIA 94111
UNITED STATES

Fax: 415-576-0300

Phone: 415-576-0200

Correspondent e-mail Yes

 $\textbf{Correspondent e-mail:} \ \underline{\text{tmadmin@kilpatricktownsend.com amalutta@kilp}}$

Authorized:

atricktownsend.com kkappes@kilpatricktownsend. com mmartinenko@kilpatricktownsend.com

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 25, 2015	ATTORNEY REVOKED AND/OR APPOINTED	
Mar. 25, 2015	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Sep. 22, 2014	COUNTERCLAIM OPP. NO. 999999	217238
Jul. 10, 2013	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 20, 2012	ATTORNEY REVOKED AND/OR APPOINTED	
Dec. 20, 2012	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Nov. 21, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Oct. 24, 2012	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
May 22, 2012	REGISTERED-PRINCIPAL REGISTER	
Mar. 06, 2012	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Mar. 06, 2012	PUBLISHED FOR OPPOSITION	
Feb. 15, 2012	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Feb. 08, 2012	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Feb. 03, 2012	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Feb. 03, 2012	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
Jan. 31, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	66213
Jan. 30, 2012	ASSIGNED TO LIE	66213
Jan. 12, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 12, 2012	EXAMINER'S AMENDMENT ENTERED	88888
Jan. 12, 2012	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Jan. 12, 2012	EXAMINERS AMENDMENT E-MAILED	6328
Jan. 12, 2012	EXAMINERS AMENDMENT -WRITTEN	76838
Jan. 05, 2012	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jan. 05, 2012	NON-FINAL ACTION E-MAILED	6325
Jan. 05, 2012	NON-FINAL ACTION WRITTEN	76838
Jan. 05, 2012	ASSIGNED TO EXAMINER	76838
Sep. 23, 2011	NOTICE OF PSEUDO MARK MAILED	
Sep. 22, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Sep. 22, 2011	NEW APPLICATION ENTERED IN TRAM	
	TRACA-CF and I and in Information	

TM Staff and Location Information

Case3:15-cv-03610-JSC Document1-3 Filed08/06/15 Page8 of 9

Current Location: PUBLICATION AND ISSUE SECTION Date in Location: May 22, 2012

Assignment Abstract Of Title Information

Summary

Total Assignments: 3

Registrant: INSTAGRAM, INC.

Assignment 1 of 3

Conveyance: CHANGE OF NAME

Reel/Frame: 4710/0689

Pages: 4

Date Recorded: Feb. 03, 2012

Legal Entity Type: CORPORATION

Supporting Documents: assignment-tm-4710-0689.pdf

Assignor

เออเนูเเบเ

Name: BURBN, INC.

Execution Date: Jan. 24, 2012
State or Country Where DELAWARE

Organized:

Assignee

Name: INSTAGRAM, INC.

Legal Entity Type: CORPORATION

State or Country Where DELAWARE

Organized:

Address: 181 SOUTH PARK AVENUE

SAN FRANCISCO, CALIFORNIA 94107

Correspondent

Correspondent Name: STACY E. DON

Correspondent Address: 2050 MAIN STREET, SUITE 1100

ORRICK, HERRINGTON & SUTCLIFFE LLP

IRVINE, CA 92614

Domestic Representative - Not Found

Assignment 2 of 3

Conveyance: MERGER EFFECTIVE 08/31/2012

Reel/Frame: <u>4883/0974</u>

Pages: 6

Date Recorded: Oct. 18, 2012

Supporting Documents: assignment-tm-4883-0974.pdf

Assignor

Name: INSTAGRAM, INC.

Execution Date: Mar. 13, 2012

Legal Entity Type: CORPORATION

State or Country Where DELAWARE

Organized:

Assignee

Name: IRIS ACQUISITION SUB I, LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Address: 1601 WILLOW ROAD

MENLO PARK, CALIFORNIA 94025

Correspondent

Correspondent Name: AARON FENNIMORE C/O COOLEY LLP

Correspondent Address: 777 6TH STREET, NW, SUITE 1100

WASHINGTON, DC 20001

Domestic Representative - Not Found
Assignment 3 of 3

CALABAC

Conveyance: CHANGE OF NAME

Reel/Frame: 4900/0369

Pages: 4

Date Recorded: Nov. 14, 2012

Supporting Documents: assignment-tm-4900-0369.pdf

Name: IRIS ACQUISITION SUB 1, LLC

Execution Date: Sep. 12, 2012

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Assignee

Assignor

Name: INSTAGRAM, LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Case3:15-cv-03610-JSC Document1-3 Filed08/06/15 Page9 of 9

Address: 1601 WILLOW ROAD MENLO PARK, CALIFORNIA 94025

Correspondent

Correspondent Name: AARON FENNIMORE C/O COOLEY LLP

Correspondent Address: 777 6TH STREET, NW, SUITE 1100 WASHINGTON, DC 20001

Domestic Representative - Not Found

EXHIBIT D



News Video Events CrunchBase

Search

DISRUPT SF Gagan Biyani, CEO of Food Delivery Startup Sprig, To Speak At Disrupt SF Get \$1,000 Off Tickets Now







Facebook Buys Instagram For \$1 Billion, Turns Budding Rival Into Its Standalone Photo App

Posted Apr 9, 2012 by Josh Constine and Kim-Mai Cutler

39k





















Facebook has just finished a deal to acquire mobile photo sharing app Instagram for approximately \$1 billion in cash and stock. Instagram will remain an independently branded standalone app that's separate from Facebook, but the services will increase their ties to each other. The transaction should go through this quarter pending some standard closing procedures

Last year, documents for a standalone
Facebook mobile photo sharing app were
attained by TechCrunch. Now it seems
Facebook would rather buy Instagram which
comes with a built-in community
of photographers and photo lovers,

while simultaneously squashing a threat to its dominance in photo sharing.

At 27 million registered users on iOS alone, Instagram was increasingly positioning itself as a social network in its own right — not just a photo-sharing app. And it was clear that some users were doing more of the daily sharing activities on Instagram rather than Facebook's all-in-one mobile apps, which had to be cluttered with nearly every feature of the desktop site.

With the Instagram for Android launch last week, Instagram was going to get to 50 million registered users in a heartbeat after racking up more than 1 million in the first 24 hours. And with that kind of momentum, Facebook felt like it had to move — fast. After all, photo sharing and tagging are arguably what *made* Facebook.

Whatever you think of the price given the fact that Instagram had no revenues, the reality is it was going to be worth whatever Mark Zuckerberg felt like paying for it. Both Google and Facebook had approached Instagram several times over the past 18 months, but the talks clearly didn't result in a deal. So Facebook was going to have to offer a huge premium over the last valuation for Systrom and the board to take any deal seriously.





More On The Instagram acquisition

From 0 To \$1 Billion In Two Years: Instagram's Rose-Tinted Ride To Glory

Right Refore Acquisition Instagram Closed \$50M At A \$500M Valuation From Securial Thrive

Greylock And Benchmark

Facestagram: Five New Features Facebook + Instagram Could Launch

With Instagram Buy, Facebook Officially Pushes M&A Strategy Beyond The 'Acqui-hire'

right before requisition, instagram closed asom rich assourt raiduuden nioni sequeta, minre,

Insta-Backlash: Twitterverse Overreacts To Facebook's Instagram Acquisition, Users Delete Accounts

Mark Zuckerberg posted the following letter to his Timeline about the purchase:

I'm excited to share the news that we've agreed to acquire Instagram and that their talented team will be joining Facebook.

For years, we've focused on building the best experience for sharing photos with your friends and family. Now, we'll be able to work even more closely with the Instagram team to also offer the best experiences for sharing beautiful mobile photos with people based on your interests.

We believe these are different experiences that complement each other. But in order to do this well, we need to be mindful about keeping and building on Instagram's strengths and features rather than just trying to integrate everything into Facebook.

That's why we're committed to building and growing Instagram independently. Millions of people around the world love the Instagram app and the brand associated with it, and our goal is to help spread this app and brand to even more people.

We think the fact that Instagram is connected to other services beyond Facebook is an important part of the experience. We plan on keeping features like the ability to post to other social networks, the ability to not share your Instagrams on Facebook if you want, and the ability to have followers and follow people separately from your friends on Facebook.

These and many other features are important parts of the Instagram experience and we understand that. We will try to learn from Instagram's experience to build similar features into our other products. At the same time, we will try to help Instagram continue to grow by using Facebook's strong engineering team and infrastructure.

This is an important milestone for Facebook because it's the first time we've ever acquired a product and company with so many users. We don't plan on doing many more of these, if any at all. But providing the best photo sharing experience is one reason why so many people love Facebook and we knew it would be worth bringing these two companies together.

We're looking forward to working with the Instagram team and to all of the great new experiences we're going to be able to build together.

[Additional reporting by Kim-Mai Cutler, Image Credit: Max Woolf]







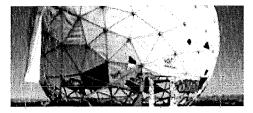
Listen To VC Eileen Burbidge On Being Fired At Skype, Founder Psychosis, And Close Ties To U.K. Gov



#ILookLikeAnEngineer Aims To Spread Awareness About Gender Diversity In Tech



Soylent Debuts Its Ready-To-Drink Mea Replacement Shake, Soylent 2.0



Uncovering ECHELON: The Top-Secret NSA/GCHQ Program That Has Been Watching You Your Entire Life



Is This Flying Car Company For Real?



Imgur Delivered Unboxing



TochCrunch DISRUPT
SF SEPT 21-23

24	Es V	£	ŧΈ	15.	E M	Ē	H T											
-						-					 	 	 	 	100 010	1111000	*****	 7
																		-
ì																		1
1																		1
																		- [
																		- 1
											 	 	 		,			 1
																		-
																		:
																		i
																		;
																		- 1
																		ì
																		1
																		-
																		-
																		-
																		ļ
																		į
																		-
																		į
																		į
																		1
																		1
	_		·F				0.0	٠	141	- 14								į
	Q	Uč	нC	Ul	1111	1	¥ ¥ 1	ly.	449	dil								-
																		3

CrunchBase

Facebook

Case3:15-cv-03610-JSC Document1-4 Filed08/06/15 Page6 of 10

FOUNDED 2004

OVERVIEW

Facebook is an online social networking service that allows its users to connect with friends and family as well as make new connections. It provides its users with the ability to create a profile, update information, add images, send friend requests, and accept requests from other users. Its features include status update, photo tagging and sharing, and more. Facebook's profile structure includes ...

LOCATION

Menio Park, California

CATEGORIES

Communities, Coileges, Identity, All Students, Social Media

FOUNDERS

Mark Zuckerberg

WEBSITE

http://www.facebook.com

Full profile for Facebook

Instagram

+



- ▼ TechCrunch Daily Top headlines, delivered daily
- ▼ TC Week-in-Review Most popular stories, delivered Sundays
- ✓ CrunchBase Daily Latest startup fundings, delivered daily

Enter Address

SUBSCRIBE

Latest Crunch Report



<meta http-equiv="refresh" content="0; URL=/plugins/feedback.php?api_key=187288694643718&channel_url=http%3A%2F% 2Fstatic.ak.facebook.com%2Fconnect%2Fxd_arbiter%2FBhKMRj1sUPu.js%3Fversion%3D41%23cb%3Df1c706f528%26domain% 3Dtechcrunch.com%26origin%3Dhttp%253A%252F%252Ftechcrunch.com%252Ff11b1e5d4%26relation%3Dparent.parent&href=http%3A%2F%2Ftechcrunch.com%2F2012%2F04%2F09%2Ffacebook-to-acquire-instagram-for-1-billion% 2F&locale=en_US&numposts=25&sdk=joey&version=v2.1&width=100%25&_fb_noscript=1" />

24 Comments

Sort by Top



Arid a comment



Muktesh Patel · Sr. Software Engineer at Ibibo Group

Its a future vision http://www.pagetube.org/why-facebook-bought-instagram/

Like - Reply - Jan 26, 2015 6:15am



Jaaron Killingsworth - Art & Graphic Design

It's not my fault I'm smarter and a better person than most when it comes to morals and values I'm a g u dip shit that means MASON

Like - Reply - Sep 26, 2014 11:38am



Jaaron Killingsworth - Art & Graphic Design

And I want to have fun working in an environment that dosnt have haters

Like - Reply - Sep 28, 2014 11:36am



Jaaron Killingsworth · Art & Graphic Design

Ok so th I is a secure place to post shit rite my search engine is a grid like picture box that recognize the logo and tells u where the brand and or logo is and what they have with that logo weather it be do clothing to monster energy and it recognizes the logo because the grid like box that outlines the points of the logo and all u have to do is snap a pic jbk

Like - Reply - Sep 26, 2014 11:32am



Jaaron Killingsworth · Art & Graphic Design

Oh and channel the Secretary fo Mr diesel

Like - Reply - Sep 26, 2014 11:27am



Jaaron Killingsworth · Art & Graphic Design

My team I want bill, Mark and Lauren Conrad cause she has fashion sense and she is beautiful

Like - Reply - Sep 26, 2014 11:26am



Jaaron Killingsworth - Art & Graphic Design

From*****

Like - Reply - Sep 26, 2014-11 24am



Jaaron Killingsworth - Art & Graphic Design

Just to let u kno the search engine is my idea Rom way back, jaaron and if I was giving a corporate office and a team I have a lot more money ideas where that came from

Like - Reply - Sep 26, 2014 11:23am



Oscar Arias

Facebook needs to buy Flickr

Like - Reply - Mar 27, 2014 10:49pm



Wildan Sandjaya

woooow 1 billions

Like - Reply - 1 2 - Jan 30, 2014 1:30pm



Nana Grac Fedrine · Works at Self-Employed

BUT FACEBOOK IZ POPULAR EN CONQUERZ OTHER WEBSITES.SORI 4 INSTAGRAM

Fating Physics Committee Colors and Committee

Case3:15-cv-03610-JSC Document1-4 Filed08/06/15 Page8 of 10

LIKE: Reply: Jan 20, 2714 0.27801



Danica Sevanny

Like - Reply - Jan 12, 2014 12:54am



Mauricio Cervantes · Style Design College

lo megor del mundococco

Like - Reply - Jan 5, 2014 3:59pm



Elsa Ramirez

ramirez555@live.com

Like - Reply - Jan 3, 2014 3:03pm



Imade Peace · University of Benin

No way Instagram is worth a Billion \$\$\$

Like - Reply - Dec 21, 2013 6:24am



Payton Lesieur - Bored Panda

Watching dirt danceing

Like - Reply - Dec 19, 2013 4:32pm



T Scott Walker - Entertainer at Marriott Grande Vista

Does instagram remain encrypted and private?

Like - Reply - Dec 17, 2013 8:30pm



Ashraf Bassey

woow it,s trilliions

Like - Reply - 🖒 1 - Dec 3, 2013 2:58pm



Janet Robinson

Instagram!!

Like - Reply - Nov 25, 2013 12.43am



Rivi Matondang - Works at Scurity guard

Like - Reply - Nov 18, 2013 6:16am



Naziru Ahmadu · Modibbo Adama University of Technology, Yola

\$0 Revenue -> \$1B Acquisition. Wow

Like - Reply - Nov 14, 2013 4:05am



Kate Evelyn Eseo -

tnx I'm very happy because I have a instragram on my fb.

Like - Reply - Apr 12, 2013 12:52am



Roxanne Legrand · Transaction at Technology

Olay's Facebook page is intended to be a fun space for you and other Olay fans.

Please note that Olay and The Procter & Gamble Company (P&G) do not necessarily endorse nor are responsible for the accuracy of information, opinions, claims, or advice shared here by Olay fans.

Like - Reply - Jan 7, 2013 2:57pm



Whitney Danier Hudson - Works at I loited States Air Forna

UP NEXT

Former Clearwell And CenterRun CEO Aaref Hilaly Joins Sequoia Capital As Partner

Posted Apr 9, 2012



Job Listings

Senior Software Engineer - Front-End

Stellar Labs, Inc.

Design Lead

Stellar Labs, Inc.

Senior Software Engineer - Backend

Stellar Labs, Inc.

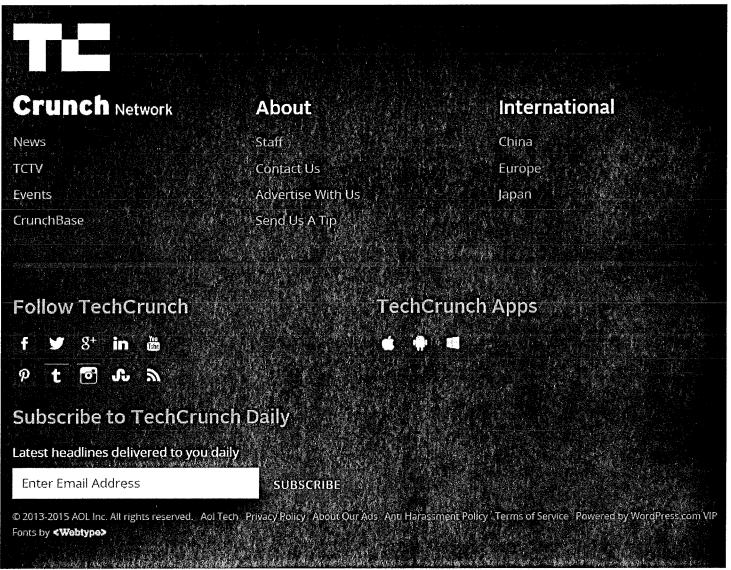
Payments Product Manager

Stellar Labs, Inc.

Specialist II, Digital Analyst

Catholic Relief Services

More from CrunchBoard



<img src="http://b.scorecardresearch.com/b?c1=2&c2=6036210&c3=&c4=&c5=&c6=&c15=&cv=1.3&cj=1"
style="height:0;visibility:hidden" /> <img src="http://pixel.wp.com/b.gif?v=noscript"</pre>

style="height:0px;width:0px;overflow:hidden" alt="" />

EXHIBIT E

Generated on: This page was generated by TSDR on 2015-08-05 13:00:52 EDT

Mark: INSTAPRINTS

INSTAPRINTS

US Serial Number: 85742628

Application Filing Date: Oct. 01, 2012

Register: Principal

Mark Type: Trademark, Service Mark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVUE on the

Trademark Trial and Appeal Board web page.

Status Date: Feb. 05, 2014 Publication Date: Oct. 08, 2013

Mark Information

Mark Literal Elements: INSTAPRINTS

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and

Asterisks *..* identify additional (new) wording in the goods/services.

For: Print products, namely, art prints on canvas, framed art prints, art prints, art prints, art prints on metal, posters, and greeting

cards

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 022, 023, 029, 037, 038, 050

Class Status: ACTIVE Basis: 1(a)

First Use: May 31, 2012

Use in Commerce: May 31, 2012

For: Online retail store services featuring print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards; advertising services, namely, promoting the artwork of other artists; promoting visual arts events by means of providing an online events calendar, and information about art, artists, and art events via an internet website, all for

promotional purposes; online business networking services for artists; online advertising and marketing in the field of artwork

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE Basis: 1(a)

First Use: May 31, 2012

Use in Commerce: May 31, 2012

For: Online photographic and image processing services, namely, photographic printing, reproduction and retouching; transferring photographic and digital images from uploaded digital images to imprintable surfaces, namely, printing of photographic images from

digital media

International Class(es): 040 - Primary Class

U.S Class(es): 100, 103, 106

Class Status: ACTIVE Basis: 1(a)

First Use: May 31, 2012

Use in Commerce: May 31, 2012

Basis Information (Case Level)

Amended Use: No Filed Use: Yes Currently Use: Yes Amended ITU: No Currently ITU: No Filed ITU: No Amended 44D: No Filed 44D: No Currently 44D: No Amended 44F: No. Filed 44E: No Currently 44E: No

Currently 66A: No Filed 66A: No Currently No Basis: No Filed No Basis: No

Current Owner(s) Information

Case3:15-cv-03610-JSC Document1-5 Filed08/06/15 Page3 of 6

Owner Name: Sean Broihier and Associates, LLC Owner Address: 1450 Second Street

Santa Monica, CALIFORNIA 90401

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where ILLINOIS Organized:

Attorney/Correspondence Information

Attorney of Record

Docket Number: B5223-5526

Attorney Email Yes

Authorized:

Correspondent

Correspondent AMY SULLIVAN CAHILL Name/Address: STITES & HARBISON PLLC

Attorney Name: Amy Sullivan Cahill

Attorney Primary Email acahill@stites.com

Address:

400 W MARKET ST STE 1800

LOUISVILLE, KENTUCKY 40202-3352

UNITED STATES

Phone: 502-681-0597

Fax: 502-779-9805

Correspondent e-mail: acahill@stites.com

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 05, 2014	OPPOSITION INSTITUTED NO. 999999	214795
Nov. 07, 2013	EXTENSION OF TIME TO OPPOSE RECEIVED	
Oct. 08, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Oct. 08, 2013	PUBLISHED FOR OPPOSITION	
Sep. 18, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Aug. 30, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	71373
Aug. 30, 2013	ASSIGNED TO LIE	71373
Aug. 21, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Aug. 21, 2013	EXAMINER'S AMENDMENT ENTERED	88888
Aug. 21, 2013	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Aug. 21, 2013	EXAMINERS AMENDMENT E-MAILED	6328
Aug. 21, 2013	EXAMINERS AMENDMENT -WRITTEN	76081
Jul. 31, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jul. 30, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jul. 30, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Feb. 05, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Feb. 05, 2013	NON-FINAL ACTION E-MAILED	6325
Feb. 05, 2013	NON-FINAL ACTION WRITTEN	76081
Jan. 29, 2013	ASSIGNED TO EXAMINER	76081
Oct. 06, 2012	NOTICE OF PSEUDO MARK MAILED	
Oct. 05, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 04, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

Law Office Assigned: LAW OFFICE 116 TM Attorney: DWYER, JOHN D

File Location

Current Location: PUBLICATION AND ISSUE SECTION Date in Location: Aug. 30, 2013

Assignment Abstract Of Title Information

Summary

Total Assignments: 1 Applicant: Sean Broihier and Associates, LLC

Assignment 1 of 1

Conveyance: CHANGE OF NAME

Reel/Frame: 5589/0340

Pages: 6

Date Recorded: Jul. 31, 2015

Supporting Documents: No Supporting Documents Available

Assignor

Name: SEAN BROIHIER AND ASSOCIATES, LLC

Execution Date: Jul. 28, 2015

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where ILLINOIS

Organized:

Assignee

Name: PIXELS.COM, LLC

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where ILLINOIS

Organized:

Address: 1450 SECOND STREET

SANTA MONICA, CALIFORNIA 90401

Correspondent

Correspondent Name: AMY S. CAHILL, ATTORNEY OF RECORD

Correspondent Address: 400 WEST MARKET STREET

SUITE 1800

LOUISVILLE, KY 40202

Domestic Representative - Not Found

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214795

Filing Date: Feb 05, 2014

Status: Pending

Status Date: Feb 05, 2014

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Sean Broihier and Associates, LLC

Correspondent Address: AMY SULLIVAN CAHILL

STITES & HARBISON PLLC 400 W MARKET ST, STE 1800 LOUISVILLE KY, 40202-3352

UNITED STATES

Correspondent e-mail: acahill@stites.com

Associated marks

Mark Application Status Serial Registration Number Number

INSTAPRINTS Opposition Pending

on Pending <u>85742628</u>

Plaintiff(s)

Name: Instagram, LLC

Correspondent Address: BOBBY GHAJAR

PILLSBURY WINTHROP SHAW PITTMAN LLP

725 S FIGUEROA ST, STE 2800 LOS ANGELES CA, 90017 UNITED STATES

Correspondent e-mail: bobby.ghajar@pillsburylaw.com , marcus.peterson@pillsburylaw.com , docket_ip@pillsburylaw.com , la-

tmdocketing@pillsburylaw.com

Associated marks

Registration Serial Mark **Application Status** Number Number INSTAGRAM 4146057 Registered 85426267 <u>4170675</u> **INSTAGRAM** Registered 85426271 INSTAGRAM SU - Registration Review Complete 85866573

Case3:15-cv-03610-JSC Document1-5 Filed08/06/15 Page5 of 6

INSTAGRAM	No	otice of Allowance - Issued	<u>85965167</u>
INSTAGRAM	No	otice of Allowance - Issued	<u>85965169</u>
INSTAGRAM	St	atment of Use - To Examiner	<u>85965174</u>
INSTAGRAM	St	atment of Use - To Examiner	<u>85965171</u>
INSTAGRAM	St	atment of Use - To Examiner	<u>85965177</u>
INSTAGRAM	Re	egistered	<u>86100072</u> <u>4756754</u>
		Prosecution History	
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Feb 05, 2014	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUI	E: Feb 05, 2014	Mar 17, 2014
3	PENDING, INSTITUTED	Feb 05, 2014	
4	ANSWER	Mar 13, 2014	
5	STIP FOR EXT	Aug 13, 2014	
6	EXTENSION OF TIME GRANTED	Aug 14, 2014	
7	STIP FOR EXT	Aug 29, 2014	
8	EXTENSION OF TIME GRANTED	Aug 29, 2014	
9	P APPEARANCE / POWER OF ATTORNEY	Oct 01, 2014	
10	D MOT FOR EXT W/O CONSENT	Oct 06, 2014	
11	CHANGE OF CORRESP ADDRESS	Oct 14, 2014	
12	P MOT TO STRIKE	Oct 14, 2014	
13	D MOT TO WITHDRAW MOT TO EXTEND	Oct 22, 2014	
14	D OPP/RESP TO MOTION	Oct 24, 2014	
15	SUSP PEND DISP OF OUTSTNDNG MOT	Nov 07, 2014	
16	P MOT FOR EXT W/O CONSENT	Nov 10, 2014	
17	P REPLY IN SUPPORT OF MOTION	Nov 10, 2014	
18	TRIAL DATES RESET	Jan 27, 2015	
19	STIP FOR EXT	Apr 16, 2015	
20	EXTENSION OF TIME GRANTED	Apr 16, 2015	
21	STIP FOR EXT	May 28, 2015	
22	EXTENSION OF TIME GRANTED	May 29, 2015	
23	STIP FOR EXT	Jul 14, 2015	
24	EXTENSION OF TIME GRANTED	Jul 15, 2015	
25	PAPER RECEIVED AT TTAB	Jul 31, 2015	

Type of Proceeding: Extension of Time

Proceeding Number: 85742628

Status: Terminated

Filing Date: Nov 06, 2013

Status Date: Feb 05, 2014

interlocutory Attorney:

Defendant

Name: Sean Broihier and Associates, LLC

Correspondent Address: AMY SULLIVAN CAHILL

STITES & HARBISON PLLC 400 W MARKET ST STE 1800 LOUISVILLE KY, 40202-3352 UNITED STATES

Associated marks

Application Status

Serial Number Registration Number

Mark **INSTAPRINTS**

Opposition Pending

85742628

Potential Opposer(s)

Name: Instagram, LLC

Correspondent Address: Lori F Mayall

1299 Pennsylvania Ave., NW, Suite 700

Case3:15-cv-03610-JSC Document1-5 Filed08/06/15 Page6 of 6

Washington DC , 20004 UNITED STATES

Correspondent e-mail: trademarks@cooley.com, afennimore@cooley.com, lmayall@cooley.com, rsingh@cooley.com

Associated marks

Mark Application Status Serial Number Registration Number

Prosecution History

Entry History Text Date Due Date

1 INCOMING - EXT TIME TO OPPOSE FILED Nov 06, 2013

2 EXTENSION OF TIME GRANTED Nov 07, 2013

EXHIBIT F

Trademark Trial and Appeal Board Electronic Filing System. http://estta.uspto.gov

ESTTA Tracking number:

ESTTA585824

Filing date:

02/05/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Instagram, LLC
Granted to Date of previous extension	02/05/2014
Address	1601 Willow Road Menlo Park, CA 94025 UNITED STATES

Attorney information	Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700 Washington, DC 20004 UNITED STATES trademarks@cooley.com, afennimore@cooley.com, Imayall@cooley.com, cnathan@cooley.com
----------------------	---

Applicant Information

Application No	85742628	Publication date	10/08/2013
Opposition Filing Date	02/05/2014	Opposition Period Ends	02/05/2014
Applicant	Sean Broihier and Associates 1450 Second Street Santa Monica, CA 90401 ISRAEL	s, LLC	

Goods/Services Affected by Opposition

Class 016. First Use: 2012/05/31 First Use In Commerce: 2012/05/31

All goods and services in the class are opposed, namely: Print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards

Class 035. First Use: 2012/05/31 First Use In Commerce: 2012/05/31

All goods and services in the class are opposed, namely: Online retail store services featuring print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards; advertising services, namely, promoting the artwork of other artists; promoting visual arts events by means of providing an online events calendar, and information about art, artists, and art events via an internet website, all for promotional purposes; online business networking services forartists; online advertising and marketing in the field of artwork

Class 040. First Use: 2012/05/31 First Use In Commerce: 2012/05/31

All goods and services in the class are opposed, namely: Online photographic and image processing services, namely, photographic printing, reproduction and retouching; transferring photographic and digital images from uploaded digital images to imprintable surfaces, namely, printing of photographic images from digital media

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4146057	Application Date	09/19/2011
Registration Date	05/22/2012	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		
Design Mark	INST	AGF	RAM
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Us Downloadable computer soft transmission of photographs		se In Commerce: 2010/10/06 e appearance and enabling

U.S. Registration No.	4170675	Application Date	09/19/2011
Registration Date	07/10/2012	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		
Design Mark	INST	AGF	RAM
Description of Mark	NONE		
Goods/Services	Providing a web site that give	es users the ability to oviding help desk ser- users with instructions	

		viding an interactive website ge their online photograph a	featuring technology that nd social networking accounts			
U.S. Application No.	85866573	Application Date	03/04/2013			
Registration Date	NONE	Foreign Priority Date	NONE			
Word Mark	INSTAGRAM					
	Ins	Tag	ram			
Description of Mark	The mark consists of	the word "INSTAGRAM" writ	ten in script writing.			
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0					
	organizing, modifying information; compute (API); computer softw (API) for computer so networking, building s retrieval, upload, downable uploading, do blogging, streaming, information via comp	vare in the nature of an applic ftware which facilitates online social networking applications inload, access and managem wnloading, accessing, posting	sharing of data and cation programming interface cation programming interface e services for social s and for allowing data nent; computer software to g, displaying, tagging, providing electronic media or vorks			
	messages, graphics, i services, namely, ele users; providing acce online forums for cominterest; providing onlother local and global bulletin boards for trainterest; broadcasting namely, uploading, perservices, in the services of the serv	nmunication, namely, transmi ine communications links wh web pages; providing online nsmission of messages amon services over computer or obsting, displaying, tagging, ar ssages, graphics, and image	to-peer photo sharing photofiles among internet and onlinedatabases; providing ssion on topics of general ich transfer web site users to chat rooms and electronicing users in the field of general ther communication networks and electronically transmitting s; telecommunications			

Providing a web site that gives users the ability to upload photographs; computer services, namely, providing an interactive web site featuring technology thatallows users to manage their online photograph and social networking accounts; providing use of online temporary non-downloadable software for modifying the appearance and enabling transmission of photographs; file sharing services, namely, providing a web site featuring

technology enabling users to upload and download electronic files; hosting online web facilities for others for managing and sharing on-line content; providing information from searchable indexes and databases of information; providing search engines for obtaining data via communications networks; computer services, namely, creating virtual communities for registered users to participate in discussions and engage in social, business and community networking; computer services, namely, hosting online web facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks: application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and amongmultiple web sites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information andto transfer and share such information among multiple web sites; providing information on topics of general interest from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks namely, provision of search engines for the Internet; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computerservices in the nature of customized web pages featuring user-defined or user-specified information, personal profiles, audio, video, photographic images, text, graphics and data Class 045. First use: First Use: 0 First Use In Commerce: 0 Internet based social introduction, networking and dating services; providing access to computer databases in the fields of social networking, social introduction and dating

U.S. Application No.	85965167	Application Date	06/20/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		
Design Mark	INST	AGF	RAM
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use	e: 0 First Use In Com	merce: 0

U.S. Application No.	85965169	Application Date	06/20/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		
Design Mark	INSTAGRAM		
Description of Mark	NONE	•	
Goods/Services	Class 041. First use: First Us	e: 0 First Use In Com	nmerce: 0
,	Providing computer, electron entertainment; publication of generated or specified conte	electronic journals ar	nd web logs featuring user
,			

U.S. Application No.	85965174	Application Date	06/20/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		

Design Mark	INST	AGR	RAM
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 0 First Use In Commerce: 0 Downloadable computer software for modifying the appearance and enabling transmission of images, audio-visual and videocontent; computer software for the collection, editing, organizing, modifying, transmission, storage and sharing of data and information; computer software foruse as an application programming interface (API); computer software in the nature of an application programming interface (API) which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication networks		
U.S. Application No.	85965171	Application Date	06/20/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		
Design Mark	INST	AGR	RAM
Description of Mark	NONE		
Goods/Services	Class 045. First use: First Use: 0 First Use In Commerce: 0 Internet based Social introduction, networking and dating services; providing information in the form of databases featuring information in the fields of social networking, social introduction and dating		
U.S. Application	85965177	Application Date	06/20/2013
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	INSTAGRAM
Design Mark	INSTAGRAM
Description of Mark	NONE
Goods/Services	Class 038. First use: First Use: 0 First Use In Commerce: 0
	Telecommunications services, namely, electronic transmission of data, messages, graphics, images, videos and information; peer-to-peer photo and video sharing services, namely, electronic transmission of digital photos, video and audio-visual files among internet users; providing access to computer, electronic and online databases; providing online forums for communication, namely, transmission on topics of general interest; providing online communications links which transfer web site users to other local and global web pages; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; broadcasting services over computer or other communication networks, namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, messages, graphics, videos, and images

U.S. Application No.	86100072	Application Date	10/24/2013
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	INSTAGRAM		
Design Mark	INST	AGF	RAM
Description of Mark	NONE		
Goods/Services	Class 035. First use: First U		
	consultation services; Promo and communication network Class 038. First use: First U	communication networ oting the goods and se s; Market research an se: 0 First Use In Com	rks; Marketing and advertising ervices of others via computer d market information services onmerce: 0
	Telecommunication services	s, namely, transmissio	n of adverting media and

	communications via computer and communication networks
Attachments	85426267#TMSN.jpeg(bytes) 85426271#TMSN.jpeg(bytes) 85866573#TMSN.jpeg(bytes) 85965167#TMSN.jpeg(bytes) 85965169#TMSN.jpeg(bytes) 85965174#TMSN.jpeg(bytes) 85965171#TMSN.jpeg(bytes) 85965177#TMSN.jpeg(bytes) 85965177#TMSN.jpeg(bytes) 86100072#TMSN.jpeg(bytes) InstagramNotice_of_Opposition_re_INSTAPRINTS.pdf(911900 bytes)

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Aaron M. Fennimore/
Name	Aaron M. Fennimore
Date	02/05/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

For the Trademark INSTAPRINTS
Published in the Official Gazette on October 8, 2013

INSTAGRAM, LLC,

Opposer,

Opposer,

V.

SEAN BROIHIER AND ASSOCIATES, LLC,

Applicant.

Applicant.

October 8, 2013

Opposition No.

Opposition No.

Applicant.

Opposition No.

In the matter of application Serial No. 85/742,628

NOTICE OF OPPOSITION

Opposer Instagram, LLC ("Instagram"), a Delaware limited liability company having its principal place of business at 1601 Willow Rd., Menlo Park, California 94025, believes that it will be damaged by the issuance of a registration for the mark INSTAPRINTS (the "INSTAPRINTS Mark" or "Applicant's Mark"), as applied for in Application Serial No. 85/742,628 filed on October 1, 2012 by Sean Broihier and Associates, LLC ("Applicant"), an Illinois limited liability company with a mailing address of 1450 Second Street, Santa Monica, California 90401.

As grounds for opposition, Instagram alleges that:

- 1. Since the launch of its photo sharing service and software application in October 2010, Instagram has continuously used the mark INSTAGRAM in interstate commerce in the United States in connection with its goods and services.
 - 2. Instagram owns multiple U.S. registrations and applications for the mark

INSTAGRAM, which cover a variety of goods and services, including, but not limited to:

- Downloadable computer software for modifying the appearance and enabling transmission of photographs;
- Computer software for the collection, editing, organizing, modifying, transmission, storage and sharing of data and information;
- Telecommunications services, namely electronic transmission of data, messages, graphics, images and information;
- Computer services, namely, providing an interactive website featuring technology that allows users to manage their online photograph and social networking accounts;
- Online software for modifying the appearance and enabling transmission of photographs;
- Providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data;
- Social introduction, networking and dating services.

True and correct copies of registrations and the U.S. Patent and Trademark Office online status pages for Instagram's pending trademark applications for the INSTAGRAM mark are attached hereto as Exhibit A, and are incorporated by reference as though fully set forth herein.

- 3. In addition, Instagram owns common law rights in the INSTAGRAM mark in connection with various other goods and services, including as identified in pending U.S. trademark applications. All of Instagram's marks that feature the term INSTAGRAM are referred to herein as the "INSTAGRAM Marks."
- 4. The INSTAGRAM mark is highly distinctive with regard to photo and video sharing services and software, and social networking services. Moreover, through Instagram's widespread use of the INSTAGRAM Marks, extensive and continuous media coverage, the high degree of consumer recognition of the INSTAGRAM Marks, Instagram's enormous and loyal user base, its multiple trademark registrations and pending applications, and other factors, the

INSTAGRAM Marks have become famous within the meaning of Section 43(c) of the United States Trademark Act, 15 U.S.C. § 1125(c).

- 5. On October 1, 2012, Applicant filed an application to register the INSTAPRINTS Mark for: "[p]rint products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards" in International Class 16 on an in-use basis; "[o]nline retail store services featuring print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards; advertising services, namely, promoting the artwork of other artists; promoting visual arts events by means of providing an online events calendar, and information about art, artists, and art events via an internet website, all for promotional purposes; online business networking services for artists; online advertising and marketing in the field of artwork" in International Class 35 on an in-use basis; and "[o]nline photographic and image processing services, namely, photographic printing, reproduction and retouching; transferring photographic and digital images from uploaded digital images to imprintable surfaces, namely, printing of photographic images from digital media" in International Class 40 on an in-use basis.
- 6. On information and belief, Applicant is currently using its mark in connection with an online marketplace for people to buy and sell photographic images that have been posted to Instagram's photo-sharing platform. True and correct copies of screenshots from Applicant's website at http://www.instagrints.com are attached hereto as Exhibit B.
 - 7. Applicant's Mark was published in the *Official Gazette* on October 8, 2013.

FIRST GROUND FOR OPPOSITION: LIKELIHOOD OF CONFUSION

8. Instagram incorporates by reference Paragraphs 1 through 7, inclusive, as if fully set forth herein.

- 9. Instagram began using its INSTAGRAM mark at least as early as October 2010, and filed applications resulting in federal registrations prior to Applicant's application to register the INSTAPRINTS Mark or, on information and belief, any actual use by Applicant of Applicant's Mark.
 - 10. The INSTAGRAM Marks are inherently strong and have become famous.
- 11. The INSTAPRINTS Mark is similar to the INSTAGRAM Marks in appearance, sound, and commercial impression.
- 12. Applicant's services offered under the INSTAPRINTS Mark, and identified in its application, are related to Instagram's goods and services.
- 13. Applicant's services are offered through the same channels of trade as Instagram's goods and services.
- 14. Instagram is informed and believes, and on that basis alleges, that Applicant's Mark was adopted with knowledge of, and the intent to call to mind, create a likelihood of confusion with regard to, and/or trade off the fame of Instagram and the INSTAGRAM Marks.
- 15. Applicant's Mark suggests an affiliation or connection between Applicant and Instagram, where none exists.
- 16. Instagram is not affiliated or connected with Applicant or its services; nor has Instagram endorsed or sponsored Applicant or its services.
- 17. Instagram has no control over the nature and quality of the services that are offered under the INSTAPRINTS Mark, and the value of the INSTAGRAM Marks are jeopardized by the registration of Applicant's Mark. Because of the likelihood of confusion between the parties' marks, any defects, improprieties, or faults found with Applicant's services marketed under the INSTAPRINTS Mark would negatively reflect upon and injure the

reputation that Instagram has established for the goods and services it offers in connection with the INSTAGRAM Marks.

18. Registration of Applicant's Mark will damage Instagram because Applicant's Mark is likely, when used on or in connection with the services described in the opposed application, to cause confusion, or to cause mistake or to deceive. Thus, Applicant's Mark is unregistrable under 15 U.S.C. §§1052, 1053, 1063 and 1125 and should be refused registration.

SECOND GROUND FOR OPPOSITION: DILUTION OF A FAMOUS MARK

- 19. Instagram incorporates by reference Paragraphs 1 through 18 inclusive, as if fully set forth herein.
 - **20.** The INSTAGRAM Marks are inherently distinctive.
- 21. Instagram has used the INSTAGRAM trademark since at least as early as 2010 for photo sharing and social networking goods and services, and has expanded use of the INSTAGRAM Marks to many other goods and services.
- 22. Instagram is the owner of multiple U.S. registrations and applications for the INSTAGRAM Marks.
- 23. Instagram has continuously used the INSTAGRAM Marks throughout the United States and internationally.
- 24. As a result of the enormous publicity afforded the INSTAGRAM Marks, and the strong and loyal base of customers that enjoys Instagram's goods and services, the INSTAGRAM Marks have a high degree of consumer recognition, are widely recognized by the general consuming public of the United States as a designation of Instagram's goods and services, and are famous.
 - 25. The INSTAGRAM Marks became famous before Applicant filed to register the

INSTAPRINTS Mark on October 1, 2012 or, on information and belief, any actual use by Applicant of Applicant's Mark.

- 26. Applicant's Mark is so similar to the registered INSTAGRAM Marks as to be likely to cause an association between Applicant's Mark and the INSTAGRAM Marks. This false association impairs the distinctiveness of the INSTAGRAM Marks and weakens the connection in the public's mind between the INSTAGRAM Marks and Instagram's goods and services.
- 27. Applicant's Mark is likely to cause dilution by blurring based on a number of relevant considerations, including:
 - (a) Applicant's Mark is similar to the INSTAGRAM Marks;
 - (b) The INSTAGRAM Marks are inherently distinctive;
- (c) Instagram has made substantially exclusive use of the INSTAGRAM Marks in connection with computer software, photo and video sharing and social networking goods and services;
- (d) The INSTAGRAM Marks are widely recognized by the general consuming public;
- (e) Instagram is informed and believes, and based thereon alleges, that Applicant's Mark was selected with the intention to create an association with the INSTAGRAM Marks.
- 28. Accordingly, Applicant's Mark is unregistrable under 15 U.S.C. §§ 1052, 1053, 1063, and 1125, and should be refused registration.

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page16 of 56

Wherefore, Instagram prays that this Opposition be sustained, and that Application Serial No. 85/742,628 be refused.

Respectfully submitted,

Date: February 5, 2014

By: /s/Aaron M. Fennimore
Cooley LLP
Attorneys for Opposer Instagram, LLC
Anne H. Peck
Aaron M. Fennimore
Suite 700
1299 Pennsylvania Avenue, NW
Washington, D.C. 20004

T: 650-843-5000 F: 650-849-7400

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page17 of 56

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that this Notice of Opposition is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the date indicated below.

I hereby further certify that on the date indicated below, a true and correct copy of this Notice of Opposition was placed in the United States Mail via First Class Mail, addressed to applicant and applicant's counsel as follows:

Sean Broihier and Associates, LLC 1450 Second Street Santa Monica, California 90401

Amy Sullivan Cahill Stites & Harbison PLLC 400 W. Market St., Suite 1800 Louisville, Kentucky 40202-3352

Date: February 5, 2014

/s/Aaron M. Fennimore
Aaron M. Fennimore

EXHIBIT A

United States of America United States Patent and Trademark Office

INSTAGRAM

Reg. No. 4,146,057

INSTAGRAM, INC. (DELAWARE CORPORATION)

Registered May 22, 2012 SAN FRANCISCO, CA 94107

Int. Cl.: 9

FOR: DOWNLOADABLE COMPUTER SOFTWARE FOR MODIFYING THE APPEARANCE AND ENABLING TRANSMISSION OF PHOTOGRAPHS, IN CLASS 9 (U.S. CLS. 21, 23, 26,

36 AND 38).

TRADEMARK

PRINCIPAL REGISTER

FIRST USE 10-6-2010; IN COMMERCE 10-6-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-

TICULAR FONT, STYLE, SIZE, OR COLOR.

THE WORDING "INSTAGRAM" HAS NO MEANING IN A FOREIGN LANGUAGE.

SER. NO. 85-426,267, FILED 9-19-2011.

BILL DAWE, EXAMINING ATTORNEY



Vand J. Lyps

Director of the United States Patent and Trademark Office

United States of America United States Patent and Trademark Office

INSTAGRAM

Reg. No. 4,170,675

INSTAGRAM, INC. (DELAWARE CORPORATION)

Registered July 10, 2012 SAN FRANCISCO, CA 94107

181 SOUTH PARK AVENUE

Int. Cl.: 42

SERVICE MARK

PRINCIPAL REGISTER

FOR: PROVIDING A WEB SITE THAT GIVES USERS THE ABILITY TO UPLOAD PHOTO-GRAPHS; TECHNICAL SUPPORT SERVICES, NAMELY, PROVIDING HELP DESK SERVICES IN THE FIELD OF COMPUTER SOFTWARE, NAMELY, PROVIDING USERS WITH INSTRUC-TIONS AND ADVICE ON THE USE OF DOWNLOADABLE COMPUTER SOFTWARE, PROVIDED ONLINE AND VIA E-MAIL; COMPUTER SERVICES, NAMELY, PROVIDING AN INTERACTIVE WEBSITE FEATURING TECHNOLOGY THAT ALLOWS USERS TO MANAGE THEIR ONLINE PHOTOGRAPH AND SOCIAL NETWORKING ACCOUNTS, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-6-2010; IN COMMERCE 10-6-2010.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-TICULAR FONT, STYLE, SIZE, OR COLOR.

THE WORD "INSTAGRAM" HAS NO MEANING IN A FOREIGN LANGUAGE.

SER. NO. 85-426,271, FILED 9-19-2011.

BILL DAWE, EXAMINING ATTORNEY



Generated on: This page was generated by TSDR on 2014-02-03 17:31:13 EST

Mark: INSTAGRAM

Instagram

US Serial Number: 85866573

Application Filing Date: Mar. 04, 2013

Register: Principal

Mark Type: Trademark, Service Mark

Status: Approved by the examining attorney for publication but has not yet published for opposition. Although rare, withdrawal of approval prior

to publication may occur after final review. The opposition period begins on the date of publication.

Status Date: Feb. 01, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: No

Mark Drawing Type: 5 - AN ILLUSTRATION DRAWING WITH WORD(S) /LETTER(S)/ NUMBER(S) INSTYLIZED FORM

Description of Mark: The mark consists of the word "INSTAGRAM" written in script writing.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Related Properties Information

Claimed Ownership of US 4146057, 4170675 Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

· Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of
 Asterisks *..* identify additional (new) wording in the goods/services.

For: Downloadable computer software for modifying the appearance and enabling transmission of photographs; computer software for the collection, editing, organizing, modifying, transmission, storage and sharing of data and information; computer software for use as an application programming interface (API); computer software in the nature of an application programming interface (API) for computer software which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer and communication

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026, 036, 038

Class Status: ACTIVE Basis: 1(b)

First Use: Oct. 2010

Use in Commerce: Oct. 2010

For: Telecommunications services, namely, electronic transmission of data, messages, graphics, images and information; peer-to-peer photo sharing services, namely, electronic transmission of digital photo files among internet users; providing access to computer, electronic and online databases; providing online forums for communication, namely, transmission on topics of general interest; providing online communications links which transfer web site users to other local and global web pages; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; broadcasting services over computer or other communication networks, namely, uploading, posting, displaying, tagging, and electronically transmitting data, information, messages, graphics, and images, telecommunications services, namely, electronic transmission of photos and videos

International Class(es): 038 - Primary Class

U.S Class(es): 100, 101, 104

Class Status: ACTIVE Basis: 1(b)

First Use: Oct. 2010

Use in Commerce: Oct 2010

For: Providing computer, electronic and online databases in the field of entertainment; publication of electronic journals and web logs featuring user generated or specified content; publishing services, namely, publishing of electronic publications for others

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE Basis: 1(b)

First Use: Oct. 2010

Use in Commerce: Oct. 2010

For: Providing a web site that gives users the ability to upload photographs; computer services, namely, providing an interactive web site featuring technology that allows users to manage their online photograph and social networking accounts; providing use of online

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page22 of 56

temporary non-downloadable software for modifying the appearance and enabling transmission of photographs; file sharing services, namely, providing a web site featuring technology enabling users to upload and download electronic files; hosting on-line web facilities for others for managing and sharing on-line content; providing information from searchable indexes and databases of information; providing search engines for obtaining data via communications networks; computer services, namely, creating virtual communities for registered users to participate in discussions and engage in social, business and community networking; computer services, namely, hosting online web facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, posting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and among multiple web sites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple web sites; providing information on topics of general interest from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks namely, provision of search engines for the Internet; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or user-specified information, personal profiles, audio, video, photographic images, text, graphics and data

International Class(es): 042 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE Basis: 1(b)

First Use: Oct. 2010

Use in Commerce: Oct. 2010

For: Internet based social introduction, networking and dating services; providing access to computer databases in the fields of social

networking, social introduction and dating

International Class(es): 045 - Primary Class

U.S Class(es): 100, 101

Class Status: ACTIVE Basis: 1(b)

First Use: Oct. 2010

Use in Commerce: Oct. 2010

Basis Information (Case Level)

Currently Use: No

Currently No Basis: No

Filed Use: No Filed ITU: Yes Flied 44D: No

Filed No Basis: No

Currently ITU: Yes Currently 44D: No Filed 44E: No Currently 44E: No Filed 66A: No Currently 66A: No

Amended Use: No Amended ITU: No Amended 44D: No Amended 44E: No

Current Owner(s) Information

Owner Name: Instagram LLC Owner Address: 1601 Willow Road

Menio Park, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron M. Fennimore

Docket Number: 309101-20000

Attorney Email Yes Authorized:

Correspondent

Correspondent AARON M. FENNIMORE

Name/Address: COOLEY LLP

Attorney Primary Email trademarks@cooley.com Address:

1299 PENNSYLVANIA AVE NW STE 700

WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Phone: (650) 843-5000

Correspondent e-mail: trademarks@cooley.com

Fax: (650) 857-0663

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

Description Date

Proceeding Number

Feb. 01, 2014

APPROVED FOR PUB - PRINCIPAL REGISTER

Jan. 30, 2014	EXAMINER'S AMENDMENT ENTERED	88888
Jan. 30, 2014	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Jan. 30, 2014	EXAMINERS AMENDMENT E-MAILED	6328
Jan. 30, 2014	EXAMINERS AMENDMENT -WRITTEN	82095
Jan. 14, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	66213
Jan. 14, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	66213
Jan. 08, 2014	ASSIGNED TO LIE	66213
Dec. 16, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Jun. 14, 2013	NOTIFICATION OF DISAPPROVAL - AMENDMENT TO USE E-MAILED	6325
Jun. 14, 2013	DISAPPROVAL - AMENDMENT TO USE E-MAILED	6325
Jun. 14, 2013	NON-FINAL ACTION WRITTEN	82095
Jun. 14, 2013	AMENDMENT OF ALLEGED USE DISAPPROVED	
Jun. 14, 2013	ASSIGNED TO EXAMINER	82095
May 22, 2013	TEAS AMENDMENT ENTERED BEFORE ATTORNEY ASSIGNED	88889
May 22, 2013	TEAS VOLUNTARY AMENDMENT RECEIVED	
Mar. 19, 2013	AMENDMENT TO USE PROCESSING COMPLETE	88889
Mar. 19, 2013	USE AMENDMENT FILED	88889
Mar. 18, 2013	TEAS AMENDMENT OF USE RECEIVED	
Mar. 12, 2013	NOTICE OF PSEUDO MARK E-MAILED	
Mar. 09, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 07, 2013	NEW APPLICATION ENTERED IN TRAM	
	TM Staff and Location Information	

TM Staff and Location Information

TM Staff Information

TM Attorney: ROSSMAN, WILLIAM M

Law Office Assigned: LAW OFFICE 109

File Location

Current Location: TMEG LAW OFFICE 109 - EXAMINING ATTORNEY ASSIGNED

Date in Location: Feb. 01, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status: Pending

Status Date: Jan 13, 2014

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES PO BOX 1093 COCONUT GROVE FL, 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Associated marks

INSTAFRAME

Serial Mark **Application Status** Number

> Opposition Pending Plaintiff(s)

85857021

Registration Number

Name: Instagram, LLC Correspondent Address: Aaron M. Fennimore

1299 Pennsylvania Ave., NW, Suite 700 Washington DC , 20004 UNITED STATES

Correspondent e-mail: trademarks@cooley.com, | mayall@cooley.com, cnathan@cooley.com, afennimore@cooley.com

Mark			Application Statu	ıs		Serial	Registration
INSTAGRAM						Number 85426267	Number 4146057
NSTAGRAM			Registered			85426271	4170675
			Registered	hlication			<u>4170073</u>
NSTAGRAM			Approved for Pu		mploto	85866573 85065167	
NSTAGRAM			Publication/Issue		•	85965167 85065160	
NSTAGRAM			Publication/Issue		•	85965169 85065174	
NSTAGRAM			Publication/Issue		•	85965174 85065171	
NSTAGRAM			Publication/Issue		•	85965171 85065177	
NSTAGRAM			Publication/Issue		mpiete	85965177 86400072	
NSTAGRAM			Non-Final Action Prosecution Hi			86100072	
Entry					D		
Number	History	/ lext		Date	Due Date		
	FILED AN	D FEE		an 13, 2014			
• •	NOTICE A	ND TRIAL DATES SENT; ANSWER D		•	Feb 23, 2014		
3	PENDING	, INSTITUTED		an 14, 2014			
Proceeding	Mumbar		e of Proceeding:		Date: Dec 16, 2013	TAVALITARIA	LINE HILL CONTROL OF THE PARTY
Froceeding		Pending		-	Date: Dec 16, 2013		
Interlocutory		BENJAMIN U OKEKE					
			Defendant	:			
	Name:	BORETA LLC			•		
Correspondent	Address:	JENNIFER BURKE SYLVA SYLVA LAW 12 GEARY ST STE 505 SAN FRANCISCO CA , 94108-5714					
Corresponde	ent e-mail:	jennifer@sylvalaw.com					
Associated mark	s						
Mark			Application Statu	ıs		Serial Number	Registratio Number
MIRRORGRAM		(Opposition Pend	ding		<u>85829301</u>	
en e			Plaintiff(s)		* .		
	Name:	Instagram, LLC					
Correspondent	Address:	Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 7 Washington DC, 20004 UNITED STATES	700				
Corresponde	ent e-mail:	trademarks@cooley.com , afennimor	re@cooley.com , <u>ima</u> y	yall@cooley.com	, rsingh@cooley.com		
Associated mark	s						D1-1
Mark			Application Statu	IS		Serial Number	Registratio Number
NSTAGRAM		· · · · · · · · · · · · · · · · · · ·	Registered			<u>85426267</u>	4146057
NSTAGRAM			Registered			<u>85426271</u>	<u>4170675</u>
NSTAGRAM			Approved for Pu	ıblication		85866573	
NSTAGRAM			Publication/Issue		mplete	85965167	
NSTAGRAM			Publication/Issue		•	85965169	
NSTAGRAM			Publication/Issue		·	<u>85965174</u>	
NSTAGRAM			Publication/Issue		•	<u>85965171</u>	
VSTAGRAM			Publication/Issue			<u>85965177</u>	
					mpiere		
NSTAGRAM		en de la companya de La companya de la co	Non-Final Action Prosecution Hi			<u>86100072</u>	

Date

Due Date

Entry Number

History Text

1	FILED AND FEE	Dec 16, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 17, 2013	Jan 26, 2014
3	PENDING, INSTITUTED	Dec 17, 2013	
4	STIP FOR EXT	Jan 17, 2014	
5	EXTENSION OF TIME GRANTED	Jan 17, 2014	

.

Generated on: This page was generated by TSDR on 2014-02-03 17:32:48 EST

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85965167 Application Filing Date: Jun. 20, 2013

Register: Principal

Mark Type: Service Mark

Status: Review prior to publication completed.

Status Date: Feb. 03, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US 4146057, 4170675

Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

• Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of

Asterisks *..* identify additional (new) wording in the goods/services.

For: Providing a web site that gives users the ability to upload images, videos and audio-visual content; providing use of online temporary non-downloadable software for modifying the appearance and enabling transmission of images and audiovisual and video content; file sharing services, namely, providing a website featuring technology enabling users to upload and download electronic files; hosting online web facilities as websites and mobile sites for others for managing and sharing on-line content; providing information from searchable indexes and databases of information; providing search engines for obtaining data via communications networks; computer services, namely, creating virtual communities for registered users to participate in discussions and engage in social, business and community networking; computer services, namely, hosting electronic facilities for others for organizing and conducting meetings, events and interactive discussions via communication networks; application service provider (ASP) services, namely, hosting computer software applications of others; application service provider (ASP) featuring software to enable or facilitate the uploading, downloading, streaming, poeting, displaying, blogging, linking, sharing or otherwise providing electronic media or information over communication networks; providing an online network service that enables users to transfer personal identity data to and share personal identity data with and among multiple websites; providing a web site featuring technology that enables online users to create personal profiles featuring social networking information and to transfer and share such information among multiple websites; providing information from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks namely, provision of search engines for the Internet; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or specified information in the nature of personal profiles, audio, video, photographic images, text, graphics and data

International Class(es): 042 - Primary Class U.S Class(es): 100, 101

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No Currently Use: No Amended Use: No Filed ITU: Yes Currently ITU: Yes Amended ITU: No Filed 44D: No Currently 44D: No Amended 44D: No Filed 44E: No Currently 44E: No Amended 44E: No Filed 66A: No Filed 66A: No Currently 66A: No Filed 66A: No Currently 66A: No Filed 66A:

Filed 66A: No Currently 66A: No Filed No Basis: No Currently No Basis: No

Current Owner(s) Information

Owner Name: Instagram, LLC

Owner Address: 1601 Willow Road

Menlo Park, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron M. Fennimore

Docket Number: 309101-20000

Attorney Primary Email trademarks@cooley.com

Address:

Attorney Email Yes

Authorized:

Correspondent

Correspondent AARON M. FENNIMORE

Name/Address: COOLEY LLP

1299 PENNSYLVANIA AVE NW STE 700

WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Phone: (650) 843-5000

Fax: (650) 857-0663

Correspondent e-mail: trademarks@cooley.com

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 03, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	73797
Feb. 03, 2014	ASSIGNED TO LIE	73797
Jan. 13, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 23, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 22, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 22, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 08, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION WRITTEN	74671
Sep. 28, 2013	ASSIGNED TO EXAMINER	74671
Jul. 03, 2013	NOTICE OF PSEUDO MARK E-MAILED	
Jul. 02, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 24, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: BROWN, BARBARA TROFFKI

Law Office Assigned: LAW OFFICE 116

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 03, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status: Pending

Status Date: Jan 13, 2014

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES PO BOX 1093

COCONUT GROVE FL, 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page28 of 56

Associated marks Serial Registration Mark **Application Status** Number Number INSTAFRAME Opposition Pending 85857021 Plaintiff(s) Name: Instagram, LLC Correspondent Address: Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700 Washington DC, 20004 UNITED STATES Correspondent e-mail: trademarks@cooley.com, Imayall@cooley.com, cnathan@cooley.com, afennimore@cooley.com Associated marks Registration Serial Mark **Application Status** Number Number **INSTAGRAM** Registered 85426267 4146057 **INSTAGRAM** 85426271 4170675 Registered **INSTAGRAM** Approved for Publication 85866573 **INSTAGRAM** Publication/Issue Review Complete 85965167 INSTAGRAM Publication/Issue Review Complete 85965169 INSTAGRAM Publication/Issue Review Complete 85965174 INSTAGRAM Publication/Issue Review Complete 85965171 INSTAGRAM Publication/Issue Review Complete 85965177 **INSTAGRAM** Non-Final Action - Mailed 86100072 **Prosecution History** Entry Date **Due Date History Text** Number FILED AND FEE Jan 13, 2014 1 NOTICE AND TRIAL DATES SENT; ANSWER DUE: 2 Jan 14, 2014 Feb 23, 2014 3 PENDING, INSTITUTED Jan 14, 2014 Type of Proceeding: Opposition Proceeding Number: 91214039 Filing Date: Dec 16, 2013 Status Date: Dec 16, 2013 Status: Pending Interlocutory Attorney: BENJAMIN U OKEKE Defendant Name: BORETA LLC Correspondent Address: JENNIFER BURKE SYLVA SYLVA LAW 12 GEARY ST STE 505 SAN FRANCISCO CA, 94108-5714 Correspondent e-mail: jennifer@sylvalaw.com **Associated marks** Serial Registration **Application Status** Mark Number Number MIRRORGRAM Opposition Pending 85829301 Plaintiff(s) Name: Instagram, LLC Correspondent Address: Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700 Washington DC , 20004 UNITED STATES Correspondent e-mail: trademarks@cooley.com, afennimore@cooley.com, lmayall@cooley.com, rsingh@cooley.com Associated marks Serial Registration **Application Status** Mark Number Number **INSTAGRAM** 85426267 4146057 Registered **INSTAGRAM** 85426271 4170675 Registered

Approved for Publication

85866573

INSTAGRAM

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page29 of 56

INSTAGRAM	Publica	ation/Issue Review Complete	<u>85965167</u>	
INSTAGRAM	Publica	ation/Issue Review Complete	<u>85965169</u>	
INSTAGRAM	Publica	ation/Issue Review Complete	<u>85965174</u>	
INSTAGRAM	Publica	ation/Issue Review Complete	<u>85965171</u>	
INSTAGRAM	Publica	ation/Issue Review Complete	<u>85965177</u>	
INSTAGRAM	Non-Fi	nal Action - Mailed	86100072	
Prosecution History				
Entry Number	History Text	Date		Due Date
	History Text FILED AND FEE	Date Dec 16, 2013		Due Date
	· · · · · · · · · · · · · · · · · · ·			Due Date n 26, 2014
	FILED AND FEE	Dec 16, 2013		
Number 1 2	FILED AND FEE NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 16, 2013 Dec 17, 2013		

Generated on: This page was generated by TSDR on 2014-02-03 17:33:53 EST

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85965169

Application Filing Date: Jun. 20, 2013

Register: Principal Mark Type: Service Mark

Status: Review prior to publication completed.

Status Date: Feb. 03, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes, The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US 4146057, 4170675

Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
 Asterisks *..* identify additional (new) wording in the goods/services.

For: Providing computer, electronic and online databases in the field of entertainment; publication of electronic journals and web logs

featuring user generated or specified content; publishing of electronic publications for others

tnternational Class(es): 041 - Primary Class

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Currently Use: No Amended Use: No Filed Use: No Amended ITU: No Filed ITU: Yes Currently ITU: Yes Amended 44D: No Currently 44D: No Filed 44D: No Filed 44F: No Currently 44E: No Amended 44E: No

Filed 66A: No Currently 66A: No Filed No Basis: No Currently No Basis: No

Current Owner(s) Information

Owner Name: Instagram, LLC

Owner Address: 1601 Willow Road Menio Park, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron M. Fennimore

Docket Number: 309101-20000

U.S Class(es): 100, 101, 107

Attorney Primary Email trademarks@cooley.com Attorney Email Yes Address:

Authorized:

Correspondent

Correspondent AARON M. FENNIMORE

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page31 of 56

Name/Address: COOLEY LLP

1299 PENNSYLVANIA AVE NW STE 700

WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Phone: (650) 843-5000

Fax: (650) 857-0663

Correspondent e-mail: trademarks@cooley.com

Correspondent e-mail

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 03, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	73797
Feb. 03, 2014	ASSIGNED TO LIE	73797
Jan. 13, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 23, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 22, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 22, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 08, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION WRITTEN	74671
Sep. 28, 2013	ASSIGNED TO EXAMINER	74671
Jul. 03, 2013	NOTICE OF PSEUDO MARK E-MAILED	
Jul. 02, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 24, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: BROWN, BARBARA TROFFKI

Law Office Assigned: LAW OFFICE 116

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 03, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status: Pending

Status Date: Jan 13, 2014

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES

PO BOX 1093

COCONUT GROVE FL, 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Associated marks

Mark **Application Status**

Serial Number Registration Number

INSTAFRAME

Opposition Pending

85857021

Plaintiff(s)

Name: Instagram, LLC

Correspondent Address: Aaron M. Fennimore

Cooley LLP

1299 Pennsylvania Ave., NW, Suite 700

Washington DC, 20004

UNITED STATES

Correspondent e-mail: trademarks@cooley.com, trade

Mark		Application Status	Serial Number	Registration Number
INSTAGRAM		Registered	85426267	<u>4146057</u>
INSTAGRAM		Registered	85426271	<u>4170675</u>
INSTAGRAM		Approved for Publication	85866573	,
INSTAGRAM		Publication/Issue Review Complete	85965167	
INSTAGRAM		Publication/Issue Review Complete	85965169	
INSTAGRAM		Publication/Issue Review Complete	85965174	
INSTAGRAM		Publication/Issue Review Complete	<u>85965171</u>	
INSTAGRAM		Publication/Issue Review Complete	85965177	
INSTAGRAM		Non-Final Action - Mailed	86100072	
		Prosecution History		
Entry Histor	y Text	Date Due Date		
Number 1 FILED AN	D FFF	Jan 13, 2014		
	AND TRIAL DATES SENT; ANSWE			
-	i, INSTITUTED	Jan 14, 2014		
		ype of Proceeding: Opposition		
Proceeding Number:	91214039	Filing Date: Dec 16, 2013	•	
Status:	Pending	Status Date: Dec 16, 2013		
Interlocutory Attorney:	BENJAMIN U OKEKE	and the second s		
		Defendant		
	BORETA LLC			
Correspondent Address:	JENNIFER BURKE SYLVA SYLVA LAW 12 GEARY ST STE 505 SAN FRANCISCO CA , 94108-57	14		
Correspondent e-mail:	jennifer@sylvalaw.com			
Associated marks			Serial	Registratio
Mark		Application Status	Number	Number
MIRRORGRAM		Opposition Pending	<u>85829301</u>	
		Plaintiff(s)		
Name:	Instagram, LLC			
Correspondent Address:	Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Sui Washington DC , 20004 UNITED STATES	ite 700		
Correspondent e-mail:	trademarks@cooley.com , afennir	more@cooley.com , <u>Imayall@cooley.com</u> , <u>rsingh@cooley.co</u>	<u>m</u>	
Associated marks			Serial	Registration
Mark		Application Status	Number	Number
NSTAGRAM		Registered	<u>85426267</u>	<u>4146057</u>
INSTAGRAM		Registered	<u>85426271</u>	<u>4170675</u>
NSTAGRAM		Approved for Publication	<u>85866573</u>	
NSTAGRAM		Publication/Issue Review Complete	<u>85965167</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965169</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965174</u>	
NSTAGRAM		Publication/Issue Review Complete	<u>85965171</u>	
NSTAGRAM		Publication/Issue Review Complete	85965177	
INSTAGRAM		Non-Final Action - Mailed	86100072	
INGLAGRAIM		NOTE HIGH MODION	<u> </u>	

Date

Due Date

Entry Number

History Text

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page33 of 56

1	FILED AND FEE	Dec 16, 2013	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 17, 2013	Jan 26, 2014
3	PENDING, INSTITUTED	Dec 17, 2013	
4	STIP FOR EXT	Jan 17, 2014	
5	EXTENSION OF TIME GRANTED	Jan 17, 2014	

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page34 of 56

Generated on: This page was generated by TSDR on 2014-02-03 17:34:38 EST

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85965174

Application Filing Date: Jun. 20, 2013

Register: Principal

Mark Type: Trademark

Status: Review prior to publication completed.

Status Date: Jan. 22, 2014

Publication Date: Feb. 25, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US 4146057, 4170675

Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

· Brackets [..] indicate deleted goods/services;

. Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of

Asterisks *..* identify additional (new) wording in the goods/services.

For: Downloadable computer software for modifying the appearance and enabling transmission of images, audio-visual and video content; computer software for the collection, editing, organizing, modifying, transmission, storage and sharing of data and information; computer software for use as an application programming interface (API); computer software in the nature of an application programming interface (API) which facilitates online services for social networking, building social networking applications and for allowing data retrieval, upload, download, access and management; computer software to enable uploading, downloading, accessing, posting, displaying, tagging, blogging, streaming, linking, sharing or otherwise providing electronic media or information via computer

and communication networks

International Class(es): 009 - Primary Class

Class Status: ACTIVE

Basis: 1(b)

U.S Class(es): 021, 023, 026, 036, 038

Basis Information (Case Level)

 Filed Use:
 No
 Amended Use:
 No

 Filed ITU:
 Yes
 Currently ITU:
 Yes
 Amended ITU:
 No

 Filed 44D:
 No
 Currently 44D:
 No
 Amended 44D:
 No

 Filed 44E:
 No
 Currently 44E:
 No
 Amended 44E:
 No

 Filed 66A:
 No
 Currently 66A:
 No
 No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Instagram, LLC

Filed No Basis: No

Owner Address: 1601 Willow Road

Menlo Park, CALIFORNIA 94035

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page35 of 56

Attorney Name: Aaron M. Fennimore

Docket Number: 309101-20000

Address:

Attorney Primary Email trademarks@cooley.com

Attorney Email Yes Authorized:

Correspondent

Correspondent AARON M. FENNIMORE

Name/Address: COOLEY LLP

1299 PENNSYLVANIA AVE NW STE 700 WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Phone: (650) 843-5000

Fax: (650) 857-0663

Correspondent e-mail: trademarks@cooley.com

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 22, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	66213
Jan. 21, 2014	ASSIGNED TO LIE	66213
Dec. 23, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 23, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 22, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 22, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 08, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION WRITTEN	74671
Sep. 28, 2013	ASSIGNED TO EXAMINER	74671
Jul. 03, 2013	NOTICE OF PSEUDO MARK E-MAILED	
Jul. 02, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 24, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: BROWN, BARBARA TROFFKI

Law Office Assigned: LAW OFFICE 116

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jan. 22, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status: Pending

Status Date: Jan 13, 2014

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES PO BOX 1093

COCONUT GROVE FL, 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Associated marks

Application Status

Serial

Registration

Mark

Number

Number

INSTAFRAME

Opposition Pending

85857021

Plaintiff(s)

Name: Instagram, LLC

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page36 of 56

Correspondent Address: Aaron M. Fennimore
Cooley LLP
1299 Pennsylvania Ave., NW, Suite 700
Washington DC, 20004
UNITED STATES

 $\textbf{Correspondent e-mail:} \ \ \, \underline{\textbf{trademarks@cooley.com}} \,, \\ \underline{\textbf{manyall@cooley.com}} \,, \\ \underline{\textbf{contention}} \,, \\ \underline{\textbf{afennimore@cooley.com}} \,, \\ \underline{\textbf{afennimo$

Associated marks

Mark		Application Status	Serial Number	Registration Number
INSTAGRAM	F	Registered	<u>85426267</u>	4146057
INSTAGRAM	F	Registered	<u>85426271</u>	<u>4170675</u>
INSTAGRAM	A	Approved for Publication	85866573	
INSTAGRAM	F	Publication/Issue Review Complete	<u>85965167</u>	
INSTAGRAM	F	Publication/Issue Review Complete	<u>85965169</u>	
INSTAGRAM	F	Publication/Issue Review Complete	<u>85965174</u>	
INSTAGRAM	F	Publication/Issue Review Complete	<u>85965171</u>	
INSTAGRAM	F	Publication/Issue Review Complete	<u>85965177</u>	
INSTAGRAM	1	Non-Final Action - Mailed	86100072	
		Prosecution History		
Entry Number	History Text	Date Due Date		
1	FILED AND FEE	Jan 13, 2014		
2	NOTICE AND TRIAL DATES SENT; ANSWER D	DUE: Jan 14, 2014 Feb 23, 2014		

Type of Proceeding: Opposition

Jan 14, 2014

Proceeding Number: 91214039

PENDING, INSTITUTED

Status: Pending

Interlocutory Attorney: BENJAMIN U OKEKE

Filing Date: Dec 16, 2013

Status Date: Dec 16, 2013

Defendant

Name: BORETA LLC

Correspondent Address: JENNIFER BURKE SYLVA

SYLVA LAW 12 GEARY ST STE 505 SAN FRANCISCO CA, 94108-5714

Correspondent e-mail: jennifer@sylvalaw.com

Associated marks

3

Serial Registration **Application Status** Mark Number Number

MIRRORGRAM 85829301 Opposition Pending

Plaintiff(s)

Name: Instagram, LLC

Correspondent Address: Aaron M. Fennimore

Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700

Washington DC , 20004

UNITED STATES

Correspondent e-mail: trademarks@cooley.com, afennimore@cooley.com, [mayall@cooley.com, rsingh@cooley.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
INSTAGRAM	Registered	85426267	<u>4146057</u>
INSTAGRAM	Registered	85426271	<u>4170675</u>
INSTAGRAM	Approved for Publication	<u>85866573</u>	
INSTAGRAM	Publication/Issue Review Complete	<u>85965167</u>	
INSTAGRAM	Publication/Issue Review Complete	<u>85965169</u>	
INSTAGRAM	Publication/Issue Review Complete	<u>85965174</u>	
INSTAGRAM	Publication/Issue Review Complete	<u>85965171</u>	

INSTAGRAM	Pub	lication/Issue Review Complete	<u>85965177</u>	
INSTAGRAM	Nor	n-Final Action - Mailed	<u>86100072</u>	
		Prosecution History		
Entry Number	History Text	Date		Due Date
1	FILED AND FEE	Dec 16, 2013		
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Dec 17, 2013		Jan 26, 2014
3	PENDING, INSTITUTED	Dec 17, 2013		
4	STIP FOR EXT	Jan 17, 2014		
5	EXTENSION OF TIME GRANTED	Jan 17, 2014		

Generated on: This page was generated by TSDR on 2014-02-03 17:35:19 EST

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85965171

Application Filing Date: Jun. 20, 2013

Register: Principal Mark Type: Service Mark

Status: Review prior to publication completed.

Status Date: Jan. 22, 2014 Publication Date: Feb. 25, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

· Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of

Asterisks *.* identify additional (new) wording in the goods/services.

For: Internet based Social introduction, networking and dating services; providing information in the form of databases featuring information

U.S Class(es): 100, 101

in the fields of social networking, social introduction and dating

International Class(es): 045 - Primary Class

Class Status: ACTIVE Basis: 1(b)

Basis Information (Case Level)

Filed Use: No Currently Use: No Amended Use: No Filed ITU: Yes Currently ITU: Yes Amended ITU: No Filed 44D: No Currently 44D: No Amended 44D: No Filed 44E: No Currently 44E: No Amended 44E: No

Currently 66A: No Filed 66A: No Currently No Basis: No Filed No Basis: No

Current Owner(s) Information

Owner Name: Instagram LLC Owner Address: 1601 Willow Road

Menio Park, CALIFORNIA 94025 UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron M. Fennimore

Docket Number: 309101-20000

Attorney Primary Email trademarks@cooley.com Address:

Attorney Email Yes Authorized:

Correspondent

Correspondent AARON M. FENNIMORE

Name/Address: COOLEY LLP

1299 PENNSYLVANIA AVE NW STE 700

WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page39 of 56

Phone: (650) 843-5000

Fax: (650) 857-0663

Correspondent e-mail: trademarks@cooley.com

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

TION REVIEW COMPLETED	66213
	66040
	66213
- PRINCIPAL REGISTER	
PONDENCE ENTERED	88889
RECEIVED IN LAW OFFICE	88889
OFFICE ACTION RECEIVED	
N-FINAL ACTION E-MAILED	6325
MAILED	6325
/RITTEN	76613
NER	76613
MARK E-MAILED	
FFICE SUPPLIED DATA ENTERED IN TRAM	
NTERED IN TRAM	
	- PRINCIPAL REGISTER PONDENCE ENTERED RECEIVED IN LAW OFFICE OFFICE ACTION RECEIVED IN-FINAL ACTION E-MAILED -MAILED //RITTEN NER MARK E-MAILED FFICE SUPPLIED DATA ENTERED IN TRAM INTERED IN TRAM

TM Staff and Location Information

TM Staff Information

TM Attorney: MARTIN, EUGENIA K

Law Office Assigned: LAW OFFICE 114

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jan. 22, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status: Pending

Status Date: Jan 13, 2014

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES

PO BOX 1093 COCONUT GROVE FL , 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Associated marks

Application Status Mark

Serial Number Registration

INSTAFRAME

85857021

Opposition Pending

Plaintiff(s)

Name: Instagram, LLC

Correspondent Address: Aaron M. Fennimore

Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700 Washington DC , 20004 UNITED STATES

 $\textbf{Correspondent e-mail:} \quad \underline{\text{trademarks@cooley.com}} \text{,} \\ \underline{\text{Imayall@cooley.com}} \text{,} \\ \underline{\text{cnathan@cooley.com}} \text{,} \\ \underline{\text{afennimore@cooley.com}} \\ \underline{\text{rademarks@cooley.com}} \text{,} \\ \underline{\text{trademarks@cooley.com}} \text{,} \\$

Associated marks

Application Status Mark

Serial Number Registration Number

INSTAGRAM		R	egistered		85426267	4146057
INSTAGRAM			egistered		85426271	4170675
INSTAGRAM			pproved for Publication		85866573	
INSTAGRAM			ublication/Issue Reviev		85965167	
INSTAGRAM			ublication/Issue Reviev	•	85965169	
NSTAGRAM			ublication/Issue Reviev	•	<u>85965174</u>	
NSTAGRAM				·		
			ublication/Issue Reviev	•	85965171 85065177	
INSTAGRAM			ublication/Issue Reviev	·	85965177	
INSTAGRAM		N Maria da la Maria de Maria de Maria de Maria de M	on-Final Action - Maile Prosecution History		86100072	
Entry Number	History	Text	Date	Due Date		
1	FILED AN) FEE	Jan 13, 20	14		
2	NOTICE A	ND TRIAL DATES SENT; ANSWER DU	•	14 Feb 23, 2014		
- 3	PENDING	INSTITUTED	Jan 14, 20	ŕ		
		Туре	of Proceeding: Oppositi			
Proceedir	ng Number:			iling Date: Dec 16, 2013		The second secon
	Status:	Pending	Si	atus Date: Dec 16, 2013		
Interlocutor	y Attorney:	BENJAMIN U OKEKE				
	* 1		Defendant			
	Name:	BORETA LLC				
Corresponder	nt Address:	JENNIFER BURKE SYLVA SYLVA LAW				
		12 GEARY ST STE 505				
		SAN FRANCISCO CA, 94108-5714				
Correspond	dent e-mail	iennifer@sylvalaw.com				
		jennifer@sylvalaw.com				
Associated mar		<u>jennifer@sylvalaw.com</u>	Application Status		Serial	
Associated mar Mark			Application Status		Number	Registratio Number
Associated mar Mark			pposition Pending			
Associated mar Mark	rks				Number	
Associated mar Mark MIRRORGRAM	rks Name:	O Instagram, LLC	pposition Pending		Number	
Associated mar Mark MIRRORGRAM	rks Name:		pposition Pending Plaintiff(s)		Number	
Associated mar Mark MIRRORGRAM Corresponder	Name: nt Address:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC, 20004	pposition Pending Plaintiff(s)	.com,rsingh@cooley.com	Number 85829301	
Associated mar Mark MIRRORGRAM Corresponder	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES	pposition Pending Plaintiff(s)	r.com , rsingh@cooley.con	Number 85829301	
Associated mar Mark MIRRORGRAM Corresponder	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES	pposition Pending Plaintiff(s)	r.com , rsingh@cooley.con	Number 85829301	Number
Associated mar Mark MIRRORGRAM Corresponder Correspond Associated mar Mark	Name: nt Address: dent e-mail:	O Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore	pposition Pending Plaintiff(s) 0 @cooley.com , Imayall@cooley	r.com , rsingh@cooley.con	Number <u>85829301</u>	Number Registratio
Associated mark Mark MIRRORGRAM Corresponder Correspond Associated mark Mark	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore	pposition Pending Plaintiff(s) 0 @cooley.com Imayali@cooley Application Status	r.com , <u>rsingh@cooley.con</u>	Number 85829301	Number Registratio Number
Associated mark Mark MIRRORGRAM Corresponder Correspond Associated mark Mark NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore	pposition Pending Plaintiff(s) 0 @cooley.com, mayall@cooley Application Status egistered		Number 85829301 Serial Number 85426267	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Correspond Associated mark NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore,	pposition Pending Plaintiff(s) 0 @cooley.com, mayall@cooley Application Status egistered egistered		Number 85829301 Serial Number 85426267 85426271	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark Mark NSTAGRAM NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore	pposition Pending Plaintiff(s)	<i>r</i> Complete	Number 85829301 Serial Number 85426267 85426271 85866573 85965167	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Mark NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore(pposition Pending Plaintiff(s)	ι Complete ι Complete	Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore, R R P P	pposition Pending Plaintiff(s)	/ Complete / Complete / Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore(pposition Pending Plaintiff(s) 0 @cooley.com, Imayall@cooley Application Status egistered egistered pproved for Publication ublication/Issue Review ublication/Issue Review ublication/Issue Review	Complete Complete Complete Complete Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174 85965171	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore(pposition Pending Plaintiff(s) 0 @cooley.com, mayall@cooley Application Status egistered egistered pproved for Publication ublication/Issue Review ublication/Issue Review ublication/Issue Review ublication/Issue Review ublication/Issue Review	Complete Complete Complete Complete Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174 85965171	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore(pposition Pending Plaintiff(s) 0 @cooley.com, mayall@cooley Application Status egistered egistered pproved for Publication ublication/Issue Review	Complete Complete Complete Complete Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174 85965171	Registratio Number 4146057
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore(pposition Pending Plaintiff(s) 0 @cooley.com, mayall@cooley Application Status egistered egistered pproved for Publication ublication/Issue Review ublication/Issue Review ublication/Issue Review ublication/Issue Review ublication/Issue Review	Complete Complete Complete Complete Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174 85965171	Registratio Number 4146057 4170675
Associated mark Mark MIRRORGRAM Corresponder Corresponder Associated mark NSTAGRAM NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore(pposition Pending Plaintiff(s) 0 @cooley.com, mayall@cooley Application Status egistered egistered pproved for Publication ublication/Issue Review	Complete Complete Complete Complete Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174 85965171	Registratio Number 4146057
Mark MIRRORGRAM Corresponder Corresponder Associated mare Mark NSTAGRAM	Name: nt Address: dent e-mail:	Instagram, LLC Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite 70 Washington DC , 20004 UNITED STATES trademarks@cooley.com , afennimore, R R P P P N Text	pposition Pending Plaintiff(s) 0 @cooley.com Imayall@cooley Application Status egistered egistered epiroved for Publication ublication/Issue Review	Complete Complete Complete Complete Complete Complete	Serial Number 85829301 Serial Number 85426267 85426271 85866573 85965167 85965169 85965174 85965171	Registratio Number 4146057 4170675

3	PENDING, INSTITUTED	Dec 17, 2013
4	STIP FOR EXT	Jan 17, 2014
5	EXTENSION OF TIME GRANTED	Jan 17, 2014

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page42 of 56

Generated on: This page was generated by TSDR on 2014-02-03 17:37:59 EST

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 85965177

Application Filing Date: Jun. 20, 2013

Register: Principal

Mark Type: Service Mark

Status: Review prior to publication completed.

Status Date: Jan. 22, 2014

Publication Date: Feb. 25, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

Claimed Ownership of US 4146057, 4170675

Registrations:

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

• Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of

Asterisks *..* identify additional (new) wording in the goods/services.

For: Telecommunications services, namely, electronic transmission of data, messages, graphics, images, videos and information; peer-topeer photo and video sharing services, namely, electronic transmission of digital photos, video and audio-visual files among internet
users; providing access to computer, electronic and online databases; providing online forums for communication, namely,
transmission on topics of general interest; providing online communications links which transfer web site users to other local and global
web pages; providing online chat rooms and electronic bulletin boards for transmission of messages among users in the field of
general interest; broadcasting services over computer or other communication networks, namely, uploading, posting, displaying,

U.S Class(es): 100, 101, 104

tagging, and electronically transmitting data, information, messages, graphics, videos, and images

International Class(es): 038 - Primary Class

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No Currently Use: No Amended Use: No Filed ITU: Yes Currently ITU: Yes Amended ITU: No Filed 44D: No Currently 44D: No Amended 44D: No Filed 44E: No Currently 44E: No Amended 44E: No

Filed 66A: No Currently 66A: No Filed No Basis: No Currently No Basis: No

Current Owner(s) Information

Owner Name: Instagram, LLC
Owner Address: 1601 Willow Road

Menio Park, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page43 of 56

Attorney Name: Aaron M. Fennimore

Docket Number: 309101-20000

Attorney Primary Email trademarks@cooley.com Address:

Attorney Email Yes Authorized:

Correspondent

Correspondent AARON M. FENNIMORE

Name/Address: COOLEY LLP

1299 PENNSYLVANIA AVE NW STE 700

WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Phone: (650) 843-50000

Fax: (650) 857-0663

Correspondent e-mail: trademarks@cooley.com

Correspondent e-mail Yes Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 22, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	66213
Jan. 21, 2014	ASSIGNED TO LIE	66213
Dec. 23, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 23, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Dec. 22, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Dec. 22, 2013	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 08, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION E-MAILED	6325
Oct. 08, 2013	NON-FINAL ACTION WRITTEN	74671
Sep. 28, 2013	ASSIGNED TO EXAMINER	74671
Jul. 03, 2013	NOTICE OF PSEUDO MARK E-MAILED	
Jul. 02, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jun. 24, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: BROWN, BARBARA TROFFKI

Law Office Assigned: LAW OFFICE 116

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Jan. 22, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status Date: Jan 13, 2014

Status: Pending Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES PO BOX 1093

COCONUT GROVE FL, 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Associated marks

Application Status

Serial

Registration

Mark

Number

INSTAFRAME

Opposition Pending

85857021

Plaintiff(s)

Name: Instagram, LLC

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page44 of 56

Correspondent Address: Aaron M. Fennimore

Cooley LLP 1299 Pennsylvania Ave., NW, Suite 700 Washington DC, 20004

UNITED STATES

Correspondent e-mail: trademarks@cooley.com, <a href="mailto:legendente-mailt

Associated marks

Mark	Application Status	Serial Registration Number Number
INSTAGRAM	Registered	<u>85426267</u> <u>4146057</u>
INSTAGRAM	Registered	<u>85426271</u> <u>4170675</u>
INSTAGRAM	Approved for Publication	<u>85866573</u>
INSTAGRAM	Publication/Issue Review Complete	<u>85965167</u>
INSTAGRAM	Publication/Issue Review Complete	<u>85965169</u>
INSTAGRAM	Publication/Issue Review Complete	<u>85965174</u>
INSTAGRAM	Publication/Issue Review Complete	<u>85965171</u>
INSTAGRAM	Publication/Issue Review Complete	<u>85965177</u>
INSTAGRAM	Non-Final Action - Mailed	<u>86100072</u>
	Prosecution History	
Entry History Text Number	Date Due Date	

1 FILED AND FEE Jan 13, 2014 2 NOTICE AND TRIAL DATES SENT; ANSWER DUE: Jan 14, 2014 Feb 23, 2014 PENDING, INSTITUTED 3

Jan 14, 2014 Type of Proceeding: Opposition

Proceeding Number: 91214039

Filing Date: Dec 16, 2013

Status: Pending

Status Date: Dec 16, 2013

Interlocutory Attorney: BENJAMIN U OKEKE

Name: BORETA LLC

Correspondent Address: JENNIFER BURKE SYLVA

SYLVA LAW

12 GEARY ST STE 505

SAN FRANCISCO CA, 94108-5714

Correspondent e-mail: jennifer@sylvalaw.com

Associated marks

Registration Serial Mark **Application Status** Number Number 85829301 MIRRORGRAM Opposition Pending

Plaintiff(s)

Name: Instagram, LLC

Correspondent Address: Aaron M. Fennimore

Cooley LLP

1299 Pennsylvania Ave., NW, Suite 700

Washington DC, 20004

UNITED STATES

 $\textbf{Correspondent e-mail:} \quad \underbrace{trademarks@cooley.com}_{}, \underbrace{afennimore@cooley.com}_{}, \underbrace{lmayall@cooley.com}_{}, \underbrace{rsingh@cooley.com}_{}, \underbrace{afennimore@cooley.com}_{}, \underbrace{afennimore@cooley.com$

Associated marks

Mark	Application Status	Serial Number	Registration Number
INSTAGRAM	Registered	85426267	4146057
INSTAGRAM	Registered	85426271	4170675
INSTAGRAM	Approved for Publication	<u>85866573</u>	
INSTAGRAM	Publication/Issue Review Complete	85965167	
INSTAGRAM	Publication/Issue Review Complete	<u>85965169</u>	
INSTAGRAM	Publication/Issue Review Complete	85965174	
INSTAGRAM	Publication/Issue Review Complete	<u>85965171</u>	

INSTAGRAM	Pul	blication/Issue Review Complete	<u>85965177</u>	
INSTAGRAM	Non-Final Action - Mailed		<u>86100072</u>	
		Prosecution History		
Entry Number	History Text	Date		Due Date
1	FILED AND FEE	Dec 16, 2013		
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE	Dec 17, 2013		Jan 26, 2014
3	PENDING, INSTITUTED	Dec 17, 2013		
4	STIP FOR EXT	Jan 17, 2014		
5	EXTENSION OF TIME GRANTED	Jan 17, 2014		

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page46 of 56

Generated on: This page was generated by TSDR on 2014-02-03 17:39:03 EST

Mark: INSTAGRAM

INSTAGRAM

US Serial Number: 86100072

Application Filing Date: Oct. 24, 2013

Register: Principal

Mark Type: Service Mark

Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional

information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on

the Trademark Document Retrieval link at the top of this page.

Status Date: Jan. 15, 2014

Mark Information

Mark Literal Elements: INSTAGRAM

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

Brackets [..] indicate deleted goods/services;

Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of

Asterisks *..* identify additional (new) wording in the goods/services.

For: Marketing, advertising and promotion services; Dissemination of advertising for others via computer and communication networks; Marketing and advertising consultation services; Promoting the goods and services of others via computer and communication

networks; Market research and market information services

International Class(es): 035 - Primary Class

U.S Class(es): 100, 101, 102

Class Status: ACTIVE

Basis: 1(b)

For: Telecommunication services, namely, transmission of adverting media and communications via computer and communication networks

International Class(es): 038 - Primary Class

U.S Class(es): 100, 101, 104

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Amended Use: No	Currently Use: No	Filed Use: No
Amended ITU: No	Currently ITU: Yes	Filed ITU: Yes
Amended 44D: No	Currently 44D: No	Filed 44D: No
Amended 44E: No	Currently 44E: No	Filed 44E: No
	Currently 66A: No	Filed 66A: No

Filed 66A: No Currently 66A: No Currently No Basis: No Currently No Basis: No

Current Owner(s) Information

Owner Name: Instagram, LLC
Owner Address: 1601 Willow Road

Menio Park, CALIFORNIA 94025

UNITED STATES

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where DELAWARE

Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Aaron M. Fennimore Docket Number: 309101-20000

Attorney Primary Email trademarks@cooley.com Attorney Email Yes

Address:

Authorized:

Correspondent

Correspondent AARON M, FENNIMORE

Name/Address: COOLEY LLP

1299 PENNSYLVANIA AVE NW STE 700

WASHINGTON, DISTRICT OF COLUMBIA 20004-2431

UNITED STATES

Phone: 650-843-5000

Fax: 650-849-7400

Correspondent e-mail: trademarks@cooley.com

afennimore@cooley.com

Correspondent e-mail Yes

Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jan. 15, 2014	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jan. 15, 2014	NON-FINAL ACTION E-MAILED	6325
Jan. 15, 2014	NON-FINAL ACTION WRITTEN	80797
Jan. 08, 2014	ASSIGNED TO EXAMINER	80797
Oct. 30, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 28, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: VOHRA, SANJEEV KUMAR

Law Office Assigned: LAW OFFICE 110

File Location

Current Location: TMO LAW OFFICE 110 - EXAMINING ATTORNEY ASSIGNED

Date in Location: Jan. 15, 2014

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91214455

Filing Date: Jan 13, 2014

Status: Pending

Status Date: Jan 13, 2014

Interlocutory Attorney: ELIZABETH WINTER

Defendant

Name: Wu Heshun

Correspondent Address: V. SCHWARTZMANN

V. SCHWARTZMANN & ASSOCIATES

PO BOX 1093

COCONUT GROVE FL, 33133

Correspondent e-mail: attorneys@taxlaw-patents.com;vshvartsma

Associated marks

Mark **Application Status** Serial Number Registration

INSTAFRAME

85857021

Opposition Pending

Plaintiff(s)

Name: Instagram, LLC

Correspondent Address: Aaron M. Fennimore

Cooley LLP

1299 Pennsylvania Ave., NW, Suite 700

Washington DC , 20004

UNITED STATES

Correspondent e-mail: trademarks@cooley.com, | mayall@cooley.com, cnathan@cooley.com, afennimore@cooley.com

Associated marks

Serial Registration **Application Status** Mark Number Number 85426267 4146057 **INSTAGRAM** Registered INSTAGRAM Registered 85426271 4170675

INSTAGRAM		Approved for Publication	<u>85866573</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965167</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965169</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965174</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965171</u>	
INSTAGRAM		Publication/Issue Review Complete	85965177	
INSTAGRAM		Non-Final Action - Mailed	86100072	
		Prosecution History		
Entry Histo	ry Text	Date Due Date		
1 FILED A	ND FEE	Jan 13, 2014		
•	AND TRIAL DATES SENT; ANSWER	·		
-	3, INSTITUTED	Jan 14, 2014		
		/pe of Proceeding: Opposition		
Proceeding Number		Filing Date: Dec 16, 2013		
Status	: Pending	Status Date: Dec 16, 2013		
Interlocutory Attorney	: BENJAMIN U OKEKE			
		Defendant		
	: BORETA LLC			
Correspondent Address	: JENNIFER BURKE SYLVA SYLVA LAW 12 GEARY ST STE 505 SAN FRANCISCO CA, 94108-571	4		
Correspondent e-mail	: jennifer@sylvalaw.com			
Associated marks				
Mark		Application Status	Serial Number	Registration Number
MIRRORGRAM		Opposition Pending	85829301	
		Plaintiff(s)		
Name	: Instagram, LLC			
Correspondent Address	: Aaron M. Fennimore Cooley LLP 1299 Pennsylvania Ave., NW, Suite Washington DC, 20004 UNITED STATES	e 700		
Correspondent e-mai	: trademarks@cooley.com, afennim	ore@cooley.com , Imayall@cooley.com , rsingh@cooley.com		
Associated marks			O-mini	Registration
Mark		Application Status	Serial Number	Number
INSTAGRAM		Registered	<u>85426267</u>	<u>4146057</u>
INSTAGRAM		Registered	<u>85426271</u>	<u>4170675</u>
INSTAGRAM		Approved for Publication	85866573	
INSTAGRAM		Publication/Issue Review Complete	<u>85965167</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965169</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965174</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965171</u>	
INSTAGRAM		Publication/Issue Review Complete	<u>85965177</u>	
INSTAGRAM		Non-Final Action - Mailed	86100072	
		Prosecution History		
Entry Histo	ry Text	Date		Due Date
Mumber	. Tarangan dari kalendari dari dari dari dari dari dari dari	Dec 16, 2013		
	AND TRIAL DATES SENT; ANSWER			Jan 26, 2014
	G, INSTITUTED	Dec 17, 2013		5a., 25, 2014
3 PENDIN		lon 17, 2014		

Jan 17, 2014

STIP FOR EXT

EXTENSION OF TIME GRANTED

5

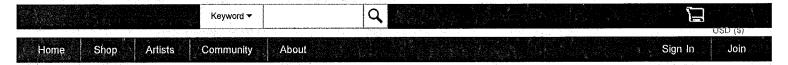
Jan 17, 2014

EXHIBIT B





Every purchase includes a money-back guarantee. 312-238-9009



Shop

Canvas Prints

Framed Prints

iPhone Cases

Galaxy Cases

Metal Prints

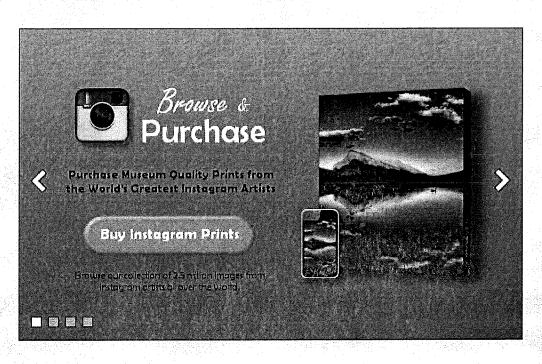
Acrylic Prints

Greeting Cards

Posters

Gift Cards

More...



Popular Subjects

All All

Abstract

Animals

Cities

Fantasy

Floral

Expand List

Members

All Members

Today's New Members (14)

Events

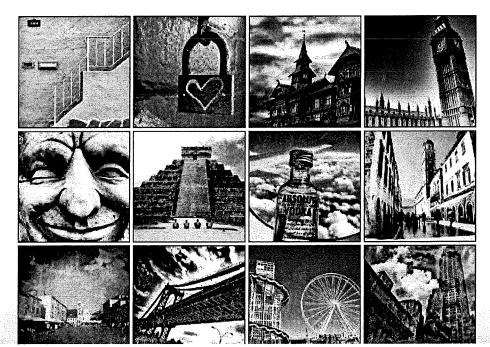
Upcoming Photography Events

Featured Images



Like us on Facebook for special discounts and product promotions.

Instaprints is home to <u>hundreds of thousands</u> of the world's greatest living photographers and Instagram enthusiasts. Browse through our collection of <u>2.037.660</u> Instagram photos - all of which can be purchased as <u>framed prints</u>, <u>canvas prints</u>, <u>metal prints</u>, <u>acrylic prints</u>, <u>greeting cards</u>, and <u>more</u>. When you're ready, we'll deliver a museum-quality masterpiece right to your doorstep.



Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page52 of 56

News

Instaprints Announcements
Recent Member Activity

Instaprints Products

What can you buy, sell, and create on Instaprints?

Spotlight



Under The Bridge Christopher Leon

















Featured Members

Hundreds of thousands of artists and photographers sell their prints through Instaprints.

View All Members



Parker, CO



Parker, CO



Denver, CO



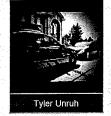
Denver, CO



Denver, CO



Denver, CO



Denver, co



Denver, CO



Denver, CO



Denver, CO

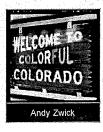


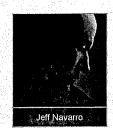
Denver, CO



Denver, CO













Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page53 of 56

Denver, CO

Denver, CO

Denver, CO

Morrison CO

Westminster, Co

Thornton, CO

We have identified your location as Littleton, CQ. If that's not correct, click here to change it,

How It Works

Turn Your Instagram Photos Into a Profitable Online Business



 Import your Instagram photos into your portfolio here on Instaprints.com. Using your images, we can create museum-quality prints, framed prints, canvas prints, greeting cards, and more!



2. Choose which size prints you want to offer and how much you want to charge for each size.

Examples:

\$25.00 for 10" x 10" \$50.00 for 20" x 20" etc...

Whatever price you set is exactly how much you'll earn on the sale.











3. When a customer decides to purchase one of your prints, we take care of everything to finalize the order:

- 1. process the customer's payment
- 2. print your photo
- 3. stretch it on stretcher bars (if applicable)
- 4. frame it and mat it (if applicable)
- 5. package it and ship it!

4. On the 15th of each month, you receive payment from Instaprints via check or PayPal for all of the orders that you received during the previous month.

Key Points

Turn Your Instagram Photos Into a Profitable Online Business

Pricing and Profits

You get to decide how much you want to earn on each sale. Yes - really! If you want to charge \$5 for a 10" x 10" print, that's great. If you want to charge \$50 for that same print, that's great, too. It's completely up to you. The price that your buyers will pay when purchasing your prints is equal to your asking price plus the Instaprints base price for the materials. For example, if our base price for a 10" x 10" canvas print is \$25 and you set your asking price to be \$10 for that size, then the buyer will pay \$35.

Products

Buyers can purchase your Instagram photos as framed prints, regular prints, canvas prints, greeting cards, and more! We stock 250+ frames, 100+ mats, and 15+ substrates in order to allow your buyers to customize their purchases. Instagrants is not a "canvas only" or "greeting cards only" website. We are a full-service print-on-demand company featuring museum-quality print products.

Payments

Payments are sent to you on the 15th of each month for all of your sales that occurred on or before the 15th of the previous month. You can choose whether you want to be paid via PayPal (all members) or check (U.S. members only). There is no minimum balance required to be paid. If you make a sale and earn \$5 in profit, we'll mail you a check for \$5.

Shipping

Instaprints ships all over the world. If UPS or FedEx can get there, then we can ship there.

Buying Your Own Products

Yes - you can buy your own prints! Send your favorite photos to your friends and family as framed prints, stretched canvases, greeting cards, and

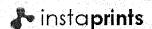


Have Fun!

Instaprints is a very social site. Not only can sell your Instagram photos as spectacular print products, you can also interact with other members via our discussion pages, chat room, member groups, activity feeds, and more!

Contact Us - About Us - Privacy Policy - Terms of Use - Returns

Copyright © 2014 Instaprints.com - All Rights Reserved - -104.9050, 39.5290



Keyword ▼	Same resident is the second of	Q
		•

CREATE SHOP SELL

CART

Home

Shop

Artists

Community

About

Sign In Join

Open an Account

Join the world's fastest-growing online photography community!

Welcome to one of the largest, fastest-growing photography communities in the world. Instaprints is the premier online marketplace for buying and selling Instagram photos as framed prints, canvas prints, acrylic prints, greeting cards, and more. It's also the easiest way to network with other photographers and visual artists and stay in touch with your local art scene! Our interactive website is designed to bring together artists, photographers, and art collectors by providing power online tools to all three groups.

Artists / Photographers

I am an Instagram user interested in creating an online portfolio, selling prints and greeting cards, advertising my upcoming appearances and events, posting press releases, networking with other members, and morel



I am interested in purchasing art, keeping track of my favorite Instagram photographers, and receiving e-mails regarding upcoming events in my area.

How It Works

Turn Your Instagram Photos Into a Profitable Online Business



1. Import your Instagram photos into your portfolio here on Instaprints.com. Using your images, we can create museum-quality prints, framed prints, canvas prints, greeting cards, and more!



2. Choose which size prints you want to offer and how much you want to charge for each size.

Examples:

\$25.00 for 10" x 10" \$50,00 for 20" x 20"

Whatever price you set is exactly how much you'll earn on the sale.











3. When a customer decides to purchase one of your prints, we take care of everything to finalize the order:

- 1. process the customer's payment
- print your photo
- 3. stretch it on stretcher bars (if applicable)
- 4. frame it and mat it (if applicable)
- 5. package it and ship it!

4. On the 15th of each month, you receive payment from Instaprints via check or PayPal for all of the orders that you received during the previous month.

Key Points

Turn Your Instagram Photos Into a Profitable Online Business



Pricing and Profits

You get to decide how much you want to earn on each sale. Yes - really! If you want to charge \$5 for a 10" x 10" print, that's great. If you want to charge \$50 for that same print, that's great, too. It's completely up to you. The price that your buyers will pay when purchasing your prints is equal to your asking price plus the Instaprints base price for the materials. For example, if our base price for a 10" x 10" canvas print is \$25 and you set your asking price to be \$10 for that size, then the buyer will pay \$35.

Case3:15-cv-03610-JSC Document1-6 Filed08/06/15 Page56 of 56

Products

Buyers can purchase your Instagram photos as framed prints, regular prints, canvas prints, greeting cards, and more! We stock 250+ frames, 100+ mats, and 15+ substrates in order to allow your buyers to customize their purchases. Instagrints is not a "canvas only" or "greeting cards only" website. We are a full-service print-on-demand company featuring <u>museum-quality print products</u>.

? Payments

Payments are sent to you on the 15th of each month for all of your sales that occurred on or before the 15th of the previous month. You can choose whether you want to be paid via PayPal (all members) or check (U.S. members only). There is no minimum balance required to be paid. If you make a sale and earn \$5 in profit, we'll mail you a check for \$5.

- 4 Shipping
 Instaprints ships all over the world. If UPS or FedEx can get there, then we can ship there.
- Buying Your Own Products

 Yes you can buy your own prints! Send your favorite photos to your friends and family as framed prints, stretched canvases, greeting cards, and
- Have Fun!
 Instagrints is a very social site. Not only can sell your Instagram photos as spectacular print products, you can also interact with other members via our discussion pages, chat room, member groups, activity feeds, and more!

EXHIBIT G

	OWNER/ATTORNEY	SERIAL NO.	MARK	DATE FILED	GOODS/SERVICES
1	Boyd, Ian A. R. Correspondence: Claire Zopf Z IP Law PLLC 1015 Elm Street Suite 201 Manchester, NH 03101 claire@ziplawpllc.com	85/728,954	PICTO-GRAM	September 2, 2014	CLASS 9: Computer hardware and computer software programs for the integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications
2	eClips, LLC Correspondence: RAJ ABHYANKER RAJ ABHYANKER, P.C. 1580 W EL CAMINO REAL STE 8 MOUNTAIN VIEW, CA 94040-2462 trademarks@legalforce.com jsalcido@rajpatent.com	86/131,994	INSTASONG	TERMINATED; Mark Registered	CLASS 42: Providing temporary use of online non-downloadable software for enabling the production of personalized audio recordings featuring concatenated music and/or phrases for a variety of applications including but not limited to information, education, story-telling, messages, greetings, alerts, alarms, ringtones and ringback tones; providing temporary use of online non-downloadable software for use with wireless devices to facilitate the creation and distribution of personalized audio recordings; providing temporary use of online non-downloadable computer database management software for use in personalizing audio content and making it available to client devices and interfaces
3	The Trade Institute LLC Correspondence: THE TRADE INSTITUTE LLC 1717 N BAYSHORE DR APT 1034 MIAMI, FL 33132-1149 Email: feyates@gmail.com	86/218,129	INSTAPICS	TERMINATED	CLASS 9: Interactive photo kiosks for uploading and printing digital images
4	APPMACHINE, LLC	86/182,362	CENSORGRAM	TERMINATED	CLASS 9: Software for managing and protecting user privacy and reputation

	Correspondence: BRIAN A. COWAN BRADLEY MURCHISON KELLY & SHEA, LLC 401 EDWARDS ST STE 1000 SHREVEPORT, LA 71101-5529 (318) 934-4046 bcowan@bradleyfirm.com				on social networking websites
5	Gevorkyan, Gor Correspondence: GEVORKYAN, GOR 1631 MARIA ST # 100 BURBANK, CA 91504-3420 818-237-5140 gor@royalgor.com	86/184,707	WEDSTAGRAM	October 15, 2014	CLASS 9: Computer application software for mobile phones, portable media players, and handheld computers, namely, software for uploading images and videos that are related to the wedding and event industry
6	Westergard, Kirk Correspondence: RAJ ABHYANKER RAJ ABHYANKER, P.C. 1580 W EL CAMINO REAL STE 8 MOUNTAIN VIEW, CA 94040-2462	86/172,733	APPRECIGRAM	TERMINATED	CLASS 42: Providing temporary use of on-line non-downloadable software, for providing users of global computer networks with the means to upload, store, organize, share, manipulate, modify, personalize, and download multimedia content, namely greeting cards, invitations, announcements, post cards, slide shows, desktop wallpapers, photo contact sheets and screen savers to express appreciation, thanks, compliments, and congratulations; Providing on-line non-downloadable software for providing users of global computer networks with the means to create slideshows and videos using digital media such as photographs, music and video to express appreciation, thanks, compliments, and congratulations
7	FLIPAGRAM, INC.	86/042,264	FLIPAGRAM	July 7, 2014	CLASS 9: Computer application software for mobile phones, portable

	Correspondence: Kia Kamran, Esq. 1900 Avenue of the Stars, 25th Floor LOS ANGELES, CA 90067 ipprosecutionsf@orrick.com, beth.goldman@orrick.com, blee@orrick.com				media players, handheld computers, namely, software for transforming still photographs into video slideshows for sharing on internet social networks
8	Global Personals, LLC Correspondence: JASON A FISCHER RANDAZZA LEGAL GROUP 2 S BISCAYNE BLVD , SUITE 2600 MIAMI, FL 33131-1819 UNITED STATES tmdocket@randazza.com	86/036,656	INSTABANG	TERMINATED	CLASS 45: Internet based social networking, introduction, and dating services; Web site services featuring on-line dating club
9	RAJ ABHYANKER RAJ ABHYANKER, P.C. 1580 W EL CAMINO REAL STE 8 MOUNTAIN VIEW, CA 94040-2462	86/122,354	INSTAMOUR	TERMINATED	CLASS 9: Downloadable software in the nature of a mobile application for internet-based dating and matchmaking; downloadable software in the nature of a mobile application for use in internet-based dating and matchmaking to create user-defined information and personal video profiles
10	Steve Robinson Correspondence: TODD E. STOCKWELL STOCKWELL & SMEDLEY, PSC 861 CORPORATE DR STE 200 LEXINGTON, KY 40503-5434	86/158,345	TAGAGRAM	TERMINATED	CLASS 38: Providing electronic transmission of pet photographs
11	Stupid Cancer, Inc. Correspondence: STEVEN KESLOWITZ, ESQ. DEBEVOISE & PLIMPTON LLP 919 3RD AVE NEW YORK, NY 10022-3902	86/156,316	INSTAPEER	November 11, 2014	CLASS 9: Downloadable software in the nature of a mobile and wireless communication devices application for individual users to communicate and correspond in real time about issues of health, private social groups, people and entertainment by

					transmitting and sharing data, text, images, audio and video through the application; CLASS 41: Educational and entertainment services, namely, a continuing program about creating an online community for registered users to facilitate the measurement and improvement of health through participating in discussions, exchange of feedbacks, engaging in social support and networking, accessible by means of mobile phone applications and web-based applications
12	Sevilla, Christina Diana Correspondence: JOSHUA M. GERBEN, ESQ. GERBEN LAW FIRM, PLLC 1050 CONNECTICUT AVE NW FL 10 WASHINGTON, DC 20036-5334	86/157,015	DATESTAGRAM	TERMINATED	CLASS 9: Computer application software for mobile phones and handheld computers, namely, software for social networking, and, photograph taking, editing and sharing
13	Mixtagram LLC Correspondence: TROY E. LARSON 1735 MARKET ST FL 51 PHILADELPHIA, PA 19103-7507 larsont@ballardspahr.com, phila_tmdocketting@ballardspahr.com	85/961,202	MIXTAGRAM	TERMINATED	CLASS 9: Computer software and downloadable mobile applications for downloading, organizing, transmitting, receiving, storing and playing digital audio files; computer software and downloadable mobile applications for organizing and customizing digital audio files into playlists that can be enhanced with text, photographs, and other graphic media; CLASS 35: Digital audio gifting service, namely, on-line retail store services featuring downloadable digital music audio files to be given as gifts offered via a web-based and mobile application-based interface that allows users to purchase and download digital audio files, organize

					the digital audio files into playlists, and transfer the digital audio files and playlists to others
14	Sotu Music, LLC. Correspondence: PAUL FARKAS 117 W 58 11 E NEW YORK, NY 10019 Tel. 9176237561 Email:paul@social.tv; socialtv@me.com	85/916,630	KARAOKEGRA	TERMINATED; Mark Registered	CLASS 41: Analyzing educational tests scores and data for others; arranging and conducting educational conferences; arranging and conducting of concerts; arranging, organizing, conducting, and hosting social entertainment events; audio production services, namely, creating and producing ambient soundscapes, and sound stories for museums, galleries, attractions, podcasts, broadcasts, websites and games; audio recording and production; conducting after school tutoring programs; contests and incentive award programs to encourage students and organization members to set up and achieve goals in academics, attendance, citizenship and conduct; dance club services; developing international student exchange programs; disc jockey services; distribution of radio programs for others; education services, namely, providing on-line classes, seminars, workshops, challenges, and contests in the field of mobile gaming, music, elementary and high school education, entertainment, and nightlife; educational and entertainment services for children, namely, providing interactive play areas, instructional classes in the field of mobile gaming, music, and entertainment and social gatherings for children; entertainment services in the nature of an on-going reality based television program;

	 Τ	 	
			entertainment services in the nature of
	1		live musical performances;
			entertainment services in the nature of
			on-going television programs in the
			field of children's entertainment;
			entertainment services, namely, a
			video arcade housed in a mobile
			trailer; entertainment services,
			namely, an on-going series featuring
ļ			sing-a-longs, music videos, nightlife,
			and interactive puzzle games
			provided through tv, online, radio,
			mobile, and transmedia;
1			entertainment services, namely, an
			on-line activity where you create your
			own music videos; entertainment
			services, namely, arranging and
			conducting of competitions for music
			videos; entertainment services,
			namely, contest and incentive award
			programs designed to reward program
			participants who submit or compete in
			user-generated, Interactive music
			videos; entertainment services,
			namely, non-downloadable ringtones,
			pre-recorded music, and graphics
			presented to mobile communications
			devices via a global computer network
			and wireless networks; entertainment
			services, namely, providing brain
			training games on-line and in mobile
			wireless form; entertainment services,
			namely, providing non-downloadable
			playback of music via global
			communications networks;
			entertainment services, namely,
			providing online video games;
			entertainment services, namely,
			providing temporary use of non-
			downloadable interactive games;
			entertainment, namely, live music
			concerts; entertainment, namely,

			preparation of special effects;
			interactive online web journals
			featuring mobile gaming, music,
			entertainment, college and graduate
			school education, and nightlife;
			language instruction; language
		1	interpretation services provided by
			telephone; language translation;
			multimedia publishing of books,
			magazines, journals, software,
			games, music, and electronic
	•		publications; music production
			services; music publishing services;
			music transcription for others; musical
			event booking agencies; organizing
			and arranging exhibitions for
			entertainment purposes; planning
			arrangement of showing movies,
			shows, plays or musical
			performances; poem and lyric writing;
			post-production editing services in the
			field of music; production of sound
			recordings; providing a database
			featuring information about artists;
			providing a website featuring
			information in the field of music and
			entertainment; providing a website for
			entertainment purposes featuring
			songs, subtitles, lyrics, and clips about
			music videos; providing an internet
			website portal featuring links to
			musical artist websites and music
			performance ticket information;
			providing on-line magazines in the
			field of mobile gaming, music,
			entertainment, music and theater
			education, and nightlife; providing on-
			line newsletters in the field of mobile
			gaming, music, entertainment, music
			and theater education, and nightlife;
			providing ratings for television, movie,
			music, and video game content;
		1	a richard acted along America and Control (c)

					providing voice overs for tapes, records and other recorded media for entertainment and education purposes; provision of information relating to live performances, road shows, live stage events, theatrical performances, live music concerts and audience participation in such events; publication of musical texts; publication of texts, books, journals; social club services, namely, arranging, organizing, and hosting social events, get-togethers, and parties for club members; written text editing
15	Boyd, Ian A. R. Correspondence: BOYD, IAN A. R. 1114 CLIFFBROOK HEDGE AVE N LAS VEGAS, NV 89081-3041 702-628 8496 E-mail:drosdova@comcast.net	85/728,951	PIX-O-GRAM	TERMINATED	CLASS 9: Computer hardware and computer software programs for the integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications
16	App Cliques Correspondence: BRUCE W STRATFORD PO BOX 150113 OGDEN, UT 84415 UNITED STATES seanphilipoom@gmail.com, bruce@stratfordlegal.com	85/883,219	INSTAGOOD	TERMINATED	CLASS 9: Computer application software for mobile phones, namely, software for use in organizing, viewing, editing and transmission of images and photographs
17	Software Success LLC SOFTWARE SUCCESS LLC SOFTWARE SUCCESS LLC 4804 GRANITE DR STE F3261	86/397,280	SHOWMEGRAM	June 10, 2015	CLASS 9: Computer hardware and computer software programs for the integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia

Case3:15-cv-03610-JSC Document1-7 Filed08/06/15 Page10 of 40

	ROCKLIN, CA 95677-2857				applications
	support@showmegram.com;sales@showm egram				
18	Yongchen Tang RAJ ABHYANKER RAJ ABHYANKER, P.C. 1580 W EL CAMINO REAL STE 8 MOUNTAIN VIEW, CA 94040-2462	86/314,106	INSTACOLLAGE	Extension of time to oppose filed May 27, 2015	CLASS 9: Downloadable computer application software for mobile phones, namely, software for users to create collages and to browse the collages created on their mobile devices; Downloadable computer application software for mobile phones, namely, software for editing images, storing said edited images, and combining adjusted versions of the edited images into a collage
19	Steve Robinson Todd E. Stockwell Stockwell & Smedley Psc 861 Corporate Dr Ste 200 Lexington, KY 40503-5434	86/449,584	TAGAGRAM	Extension of time to oppose filed May 21, 2015	CLASS 45: providing an online database and website featuring information about lost pets; providing online tracking, locating and monitoring services for the purpose of locating lost pets; providing assistance for the purpose of locating lost pets
20	Songstergram, Inc. Songstergram, Inc. 203 W. Orange Heights Ln Corona, CA 92882-6344 rocky@songstergram.com	86/035,702	SONGSTERGRA M	May 19, 2015	CLASS 9: Computer application software for mobile phones, tablets, computer, and handheld computers, namely, software for making music videos, communicating between users, storing audio files, and audio recordings
21	John Schussler Arther K.Shaffer Intellectual Property Center, LLC 7101 College Blvd, Ste 1520 Oveerland Park, KS 66210-2081	86/299,301	FUTUREGRAM	Extension of time to oppose filed May 7, 2015	CLASS 38: Online timed document delivery, namely, delivery of letters and printed materials; CLASS 39: Document delivery, namely, delivery of letters and printed materials
22	Aaron Tabor Michael Stein Stein IP LLC 1400 I St NW, Ste 300 Washington, DC 20005-6500	86/433,541	INSTALOVE	TERMINATED	CLASS 9: Computer software, namely, software that allows users to interact online with information and media content that other users and on-line host provider share, and software that allows users to discover,

]	•			access and share information about,
				and media content concerning goods,
		1	ł	services, and experiences; computer
				software and software applications
			j	that enable electronic communications
				network users to create, upload,
1 1				bookmark, view, annotate, and share
			1	data, user-defined and software-
			j	•
				application defined information and
				media content; computer and
			İ	electronic digital device software,
				downloadable or prerecorded, in the
				nature of a mobile application that
				enables electronic communications
				network users to create, upload,
				bookmark, view, annotate, share and
				discover data, information and media
				content; software downloadable via
				electronic communications networks
				and wireless devices that enables
1				electronic communications network
1		1		users to create, upload, bookmark,
				view, annotate, share and discover
				data, information and media content;
				software to facilitate business
			}	promotion, connecting social network
				users with businesses; downloadable
				electronic publications in the nature of
				photographs, texts, videos and
			·	graphic art in the field of general
				human interest; computer e-
				commerce software to allow users to
				perform electronic business
				transactions via a global computer
				network; computer software enabling
				group feedback and group
				collaboration on uploaded or curated
				content, namely, pre-project, in-
				progress, and post-project content,
				gamification of interactive content
				units for fun and for incentivization,
<u> </u>		 		namely, earning a coupon or prize as

	individual or group, earning rewards based on interacting with content, engaging in interactive content, namely, health quizzes, reviews, news, trivia, games, How-to courses and classes, personals, daily deals and sales, crowd funding, booking trips, exploring maps, watching ondemand videos, including live streaming videos, paid video ondemand, subscription video ondemand and the like and listening to on-demand audio; and computer and electronic digital device software for use in filtering e-mails, photographs, video, audio, and internet and digital applications content of profanity and pornography;
	CLASS 35: Advertising and promotional services; advertising and marketing services, namely, promoting the products and services of others; business data analysis; business monitoring and consulting services, namely, data and behavior analysis to provide strategy, insight, and marketing guidance, and for analyzing, understanding and predicting behavior and motivations, and market trends; promoting the goods and services of others by means of operating an online platform with hyperlinks to the resources of others; providing an online searchable database featuring a wide variety of consumer, business, and industrial goods of others; electronic commerce services, namely, providing information about products via telecommunication networks for advertising and sales purposes;

			ı
			CLASS 38: Electronic bulletin board services;
			CLASS 41: Entertainment and education services in the nature of a series of short shows featuring gift ideas, entertainment and educational videos, travel place boards, animals and pets, architecture, art, cars and motorcycles, celebrities, design, do-it-
			yourself projects and crafts, education, film, music and books, food and drink, gardening, geek culture, hair and beauty, health and fitness, history, holidays and events, home
			decor, humor, illustrations and posters, kids and parenting, men's fashion, outdoors, photography, uncreated, unreleased, new, special, popular, and rare products, quotes,
- and the contract of the cont			science and nature, sports, tattoos, technology, travel, weddings, and women's fashion, and viewers' opinions thereof distributed to mobile
			handsets, which may include video, text, photos, illustrations or hypertext; On-line journals, namely, blogs featuring a broad spectrum of information and opinion on
			contemporary politics and culture; Providing a website featuring blogs and non-downloadable publications in the nature of short articles in the fields of contemporary politics, culture, and
			group humanitarianism, namely, group interaction with content to help people in need of medical, situational or other assistance; Providing an
			Internet news portal featuring links to news stories and articles in the field of current events; Providing information

			and news in the field of current events relating to contemporary politics and
			culture; Providing information, news
			and commentary in the field of current
			events relating to contemporary
			politics and culture; On-line journals,
			namely, blogs and postings featuring
			educational and cultural writings and
			images:
1			
			CLASS 42: Computer services,
ļ			namely, providing search platforms
1			featuring technology that enables
			internet users to create, upload,
			bookmark, view, annotate, share and
			discover data, information and
			multimedia content via desktop, tablet,
			smartphone or mobile multi-devices;
			computer services, namely, creating
			an online community for registered users to participate in discussions, get
			feedback from their peers, form virtual
1			communities, and engage in social
			networking services in the field of
			general interest; providing a website
			featuring non-downloadable software
			that enables electronic
			communications network users to
			create, upload, bookmark, view,
			annotate, share and discover data,
			information and media content;
			providing a platform featuring non-
			downloadable software that enables
			electronic communications network
			users to create, upload, bookmark,
			view, annotate, share and discover
			data, information, pictures, video, and
			media content provided by other users
			and platform provider; hosting an
			interactive platform and online non- downloadable software for uploading,
			posting, showing, displaying, tagging,
			posting, snowing, displaying, tagging,

	sharing and transmitting messages,
	comments, multimedia content, photos, pictures, images, text,
	information, and other user-generated
	content; developing and hosting a
	server on a global computer network for the purpose of facilitating e-
	commerce via such a server; platform
	and facility for mobile device
	communication, namely, providing
·	non-downloadable software that
	facilitates sharing and discovering information and media content via
	mobile devices; platform and facility
	for networked communications,
	namely, providing non-downloadable
	software that facilitates sharing and discovering information and media
	content via local and global computer,
	mobile, cellular, electronic, wireless,
	and data communications networks;
	providing a website featuring technology that enables group
	feedback and group collaboration on
	uploaded content, namely, pre-
	project, in-progress, and post-project
	content, gamification of interactive content units for fun and for
	incentivization, namely, earning a
	coupon or prize as individual or group
	earning rewards based on interacting
	with content, upload pictures and video; Computer services, namely,
	providing a website featuring
	technology and temporary use of a
	web-based software application for
	use in filtering e-mails, photographs, video, audio, and internet content of
	profanity and pornography, either
	standalone or across all devices of a
	platform;

Case3:15-cv-03610-JSC Document1-7 Filed08/06/15 Page16 of 40

					CLASS 45: Providing online social networking services for purposes of commentary, comparison, collaboration, consultation, evaluation, advice, discussion, research, notification, reporting, identification, information sharing, indexing, information location, entertainment, pleasure, social networking or general interest
23	Instagator, Inc. JESSICA L. ROTHSTEIN Goodwin Procter LLP 620 8th Ave New York, NY 10018-1618	86/441,518	INSTAGATOR	Extension of Time to Oppose Filed May 7, 2015	class 9: Downloadable software to enable users to access and review information regarding travel, social activities, and goods and services of others, indicate interest in promotions, activities, goods and services of others, receive pricing information, purchase products or services of others, and process financial transactions for same; Class 42: Providing temporary use of non-downloadable software to enable users to review information regarding travel and social activities, to receive pricing information, process financial transactions, submit customer information, and purchase products or services of others; providing temporary use of non-downloadable software to enterprise customers to allow for customer relationship management, appointment scheduling, payment transactions, and for evaluating and managing information on business performance and customers
24	Helix Development Group LLC	86/447,205	SATGRAM	Extension of Time	CLASS 9: Communications software
	i i			to Oppose Filed	for connecting smartphones, RF, hand-held and wearable devices,
	HELIX DEVELOPMENT GROUP LLC. HELIX DEVELOPMENT GROUP LLC.			May 7, 2015	tablets and PCs for remote media
	740 NE 3RD ST STE 3-132				distribution with geospatial telemetry

	BEND, OR 97701-4700				and live tracking on GPS interactive maps on websites
25	White Castle Management Co. WHITE CASTLE MANAGEMENT CO. WHITE CASTLE MANAGEMENT CO. 555 W GOODALE ST COLUMBUS, OH 43215-1104 rmorgan@porterwright.com, ipdocket@porterwright.com	86/345,267	SLIDERGRAM	April 24, 2015	CLASS 38: Transmission online and through electronic mail of personalized electronic greeting cards
26	Adgram, Inc. KEYVAN SAMINI 4695 MACARTHUR CT FL 11 NEWPORT BEACH, CA 92660-1882 KSAMINI@ME.COM	86/308,589	ADGRAM	April 24, 2015	CLASS 35: Advertisement for others on the Internet; Advertisement via mobile phone networks; Advertising agencies; Advertising agencies, namely, promoting the goods and services of others; Advertising agency specializing in the design and execution of word of mouth, viral, buzz and experiential marketing programs; Advertising and advertisement services; Advertising and business management consultancy; Advertising and business services, namely, securing airtime on all forms of media communications stations, systems, networks, and services for the purpose of promoting the goods and services of others; Advertising and commercial information services, via the internet; Advertising and directory services, namely, promoting the services of others by providing a web page featuring links to the websites of others; Advertising and marketing; Advertising and marketing; Advertising and marketing consultancy; Advertising and marketing consultancy; Advertising and marketing services provided by means of indirect methods of marketing communications, namely, social media, search engine marketing, inquiry marketing, internet

		00/440 000	LOKOCRAMICO	TERMINATED	and other forms of passive, sharable or viral communications channels; Advertising and marketing services, namely, promoting the goods and services of others; Advertising and promoting the goods and services of a visual artist; Advertising and promotion services and related consulting; Advertising and promotional services; Advertising and publicity services; Advertising and publicity services, namely, promoting the goods, services, brand identity and commercial information and news of third parties through print, audio, video, digital and on-line medium; Advertising by transmission of on-line publicity for third parties through electronic communications networks; Advertising consultation; Advertising copywriting; Advertising flyer distribution for others; Advertising in periodicals, brochures and newspapers; Advertising in the popular and professional press; Advertising of commercial or residential real estate CLASS 35: Advertising services,
27	iMast Media LLC IMAST MEDIA LLC IMAST MEDIA LLC 1280 N LAUREL AVE APT 2 WEST HOLLYWOOD, CA 90046-5127	86/413,092	LOKOGRAM GO GLOBAL.BE LOCAL	TERMINATED	namely, promoting and marketing the goods and services of others in the field of cultural events, restaurants, shopping, and travel via print and electronic media; Advertising via electronic media and specifically the internet; Advertising, marketing and promotional services related to all industries for the purpose of facilitating networking and socializing opportunities for business purposes; Media planning, namely, advising the client on the correct times and

		T			
					stations to advertise based on media
İ					analysis of the market for that media;
					On-line customer-based social media
					brand marketing services; Online
					media monitoring services using
					computer software to automatically
					monitor internet websites and online
					publications for customer-specified
					topics and to capture relevant content
					on those topics, and providing
					documentation and analysis of that
					online content to others for business
					purposes; Preparation and realization
					of media and advertising plans and
					concepts; Providing a website for
					users with specific informed
					recommendations of specific
					consumer products and services
					validated by the users' inputted
					preferences and social network;
			·		
					Providing advertising, marketing and
1					promotional services, namely,
					development of advertising
					campaigns for web pages; Providing
					business information in the field of
					social media; Providing consulting
					services in the field of facilitating the
	·				planning, buying, and selling of media;
					Providing information in the field of
					marketing and on-line marketing
					media via the Internet; Providing
					marketing consulting in the field of
					social media; Providing promotional
					marketing services to businesses in
1			/		the broadband and media industries;
					Public relations, advertising and
					marketing services for the tourism and
					convention industry, namely,
					organizing and hosting site
					inspections and familiarization tours
					for wholesalers, tour operators, travel
					agents, meeting and incentive travel
L			1	-L	1 3 1

					planners and travel media; Social media strategy and marketing consultancy focusing on helping clients create and extend their product and brand strategies by building virally engaging marketing solutions
28	Quidubi, LLC Matthew J Ladenheim TREGO, HINES & LADENHEIM, PLLC Suite 210 9300 Harris Corners Parkway Charlotte, NC 28269 mjl@thl-iplaw.com	86/255,635	MEMORYGRAM	April 10, 2015	CLASS 42: Providing a website featuring technology enabling users to store, edit, and share; Peer-to-browser photo sharing services, namely, providing a website featuring technology enabling users to upload, view, and download digital photos; Providing a web site that gives computer users the ability to upload, exchange and share photos, videos and video logs; Scanning of photographs and converting physical photographs to digital format files; conversion of analog photography to digital format files; Providing a web site featuring technology that enables internet users to annotate digital photograph files with stored metadata; providing a web site featuring technology that enables internet users to store and present historical data of digital photographs and videos using text or voice embedded in the photographs and video files; Conversion of data or documents from physical to electronic media; Data conversion of computer program data or information; Data conversion of electronic information; Design and development of software and hardware for data and multimedia content conversion from and to different protocols; Development and

					creation of computer programmes for data processing
29	Sonny Stevenson SONNY STEVENSON 47-457 AHUIMANU RD APT A KANEOHE, HI 96744-4880 UNITED STATES sonny.stevenson@gmail.com Phone: 808-498-8242	86/331,386	KAVAGRAM	April 7, 2015	CLASS 9: Computer application software for mobile phones, namely, software for photo editing and branding; Computer software for processing digital images
30	Howard Wisnicki GARY J. GORHAM RICHARDSON & PATEL LLP 1100 GLENDON AVE PH 8 LOS ANGELES, CA 90024-3526	86/414,621	INSTAAPPT	Extension of Time to Oppose Filed April 8, 2015	CLASS 9: Computer software for accessing information directories that may be downloaded from the global computer network; Computer software for application and database integration; Computer software for computer system and application development, deployment and management; Computer software for controlling and managing patient medical information; Computer software for physicians, doctors, hospitals and medical professionals to organize and control all patient appointment information
31	Instapray, Inc. Instapray, Inc. 2639 Chestnut Street 2639 Chestnut Street San Francisco, CA 94123 UNITED STATES legal@instapray.com, legal@instapray.com	86/022,405	INTAPRAYER	Extension of Time to Oppose Filed March 19, 2015	CLASS 42: Providing a web site that gives computer users the ability to upload, exchange and share prayers
32	Instadme, Inc. INSTADME, INC. INSTADME, INC. 1315B BROADWAY STE 115 HEWLETT, NY 11557-2115	86/229,331	INSTADME	Extension of Time to Oppose Filed March 19, 2015	CLASS 42: Providing a website featuring technology that enables users to upload photographs and video; computer services, namely, providing an interactive web site featuring technology that allows users to manage their online photograph and social networking accounts;

 	1	1	
			providing use of online temporary
			non-downloadable software for
			modifying the appearance and
			enabling transmission of photographs;
			file sharing services, namely,
			providing a web site featuring
		ì	technology enabling users to upload
		-	and download electronic files; hosting
		-	on-line web facilities for others for
	•		
			managing and sharing on-line content;
		-	providing information from searchable
			indexes and databases of information;
			providing search engines for obtaining
			data via communications networks;
			computer services, namely, creating
			virtual communities for registered
			users to participate in discussions and
			engage in social, business and
	1		community networking; computer
			services, namely, hosting online web
			facilities for others for organizing and
		1	conducting meetings, events and
			interactive discussions via
			communication networks; application
			service provider (ASP) services,
	,		namely, hosting computer software
			applications of others; application
			service provider (ASP) featuring
			software to enable or facilitate the
			uploading, downloading, streaming,
			posting, displaying, blogging, linking,
			sharing or otherwise providing
			electronic media or information over
	•		communication networks; providing an
			online network service that enables
			users to transfer personal identity data
			to and share personal identity data
			with and among multiple web sites;
			providing a web site featuring
			technology that enables online users
			to create personal profiles featuring
			social networking information and to

					transfer and share such information among multiple web sites; providing information on topics of general interest from searchable indexes and databases of information, including text, electronic documents, databases, graphics and audio visual information, on computer and communication networks namely, provision of search engines for the Internet; providing temporary use of non-downloadable software applications for social networking, creating a virtual community, and transmission of audio, video, photographic images, text, graphics and data; computer services in the nature of customized web pages featuring user-defined or user-specified information, personal profiles, audio, video, photographic images, text, graphics and data, vote for favorite audio, photograph, video
33	Healogram, Inc. MIGUEL C. DANIELSON DANIELSON LEGAL LLC 1 MIFFLIN PL STE 400 CAMBRIDGE, MA 02138-4946	86/391,404	HEALOGRAM	Extension of Time to Oppose Filed March 19, 2015 but TERMINATED	of on-line non-downloadable software and applications for remote monitoring and diagnosis of medical patients, communication between patients and medical personnel, and communication and collaboration among medical providers; providing an internet website featuring technology for medical professionals and medical patients featuring medical information collected from remote locations via electronic devices, that can be accessed in real-time by medical professionals for purposes of monitoring and diagnosing medical conditions
34	Kambiz Akahavan	86/091,233	PAINTAGRAM	March 16, 2015	CLASS 35: Retail store services featuring fine art paintings,

	JOSEPH SOFER SOFER & HAROUN LLP 215 LEXINGTON AVENUE, SUITE 1301 NEW YORK, NY 10016 UNITED STATES abrand@soferharoun.com, joesofer@soferharoun.com				photographs, framed paintings, digital paintings, and artwork replicas; Online retail store services featuring fine art paintings, photographs, framed paintings, digital paintings, and artwork replicas
35	Donna Chapmon LINDA H LIU KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FL 14 IRVINS, CA 92614-8214 UNITED STATES efiling@knobbe.com	86/248,253	INSTASNAGG	March 9, 2015	CLASS 9: Computer application software for mobile phones and tablet computers, namely, application software for providing fashion information and advice
36	Quidubi, LLC MATTHER J LADENHEIM TREGO HINES & LADENHEIM PLLC 9300 HARRIS CORNERS PARKWAY, SUITE 210 CHARLOTTE, NC 28269 UNITED STATES mjl@thl-iplaw.com	86/246,833	MEMORYGRAM	March 9, 2015	CLASS 9: Software for digitally storing and presenting historical data of digital photographs and videos using text or voice embedded in the photographs and video files; software for scanning of photographs, converting physical photographs to digital format files; computer software for writing of digital format files to a data storage medium, uploading photographs to the internet, and retrieval of stored photographs from the internet; software for conversion of analog photography to digital format files; software for conversion of physical photography to digital format files; software for color enhancement of digital photographs and digital videos; software for displaying in digital animation, a photograph rotating to its back side or a video playing at its end credits, and further displaying options to embed text or audio files into the photograph or video file; software for saving metadata to digital photograph files; software for storing text and audio

37	Bunny Eyes Apps RAJ ABHYANKER RAJ ABHYANKER, P.C. 1580 W EL CAMINO REAL STE 8 MOUNTAIN VIEW, CA 94040-2462	86/377,951	ABSTAGRAM	TERMINATED	data to digital photographs; software for integrating data fields into digital photograph files; software for editing metadata stored within digital photograph files; software for capturing digital photography CLASS 9: 86/377,951
38	Healogram, Inc. MIGUEL C. DANIELSON DANIELSON LEGAL LLC 1 MIFFLIN PL STE 400 CAMBRIDGE, MA 02138-4946	86/391,408	HEALOGRAM	Extension of Time to Oppose Filed February 24, 2015	CLASS 38: Telecommunication services, namely, transmission of voice, data, graphics, images, audio and video by means of telecommunications networks, wireless communication networks, and the Internet
39	Healogram, Inc. MIGUEL C. DANIELSON DANIELSON LEGAL LLC 1 MIFFLIN PL STE 400 CAMBRIDGE, MA 02138-4946	86/391,410	HEALOGRAM	Extension of Time to Oppose Filed February 24, 2015	CLASS 9: Downloadable software in the nature of a mobile application for communication between patients and medical personnel, and for remote monitoring and diagnosis of medical patients
40	Discagram, LLC JASON ZEDECK CYPRESS, LLP 11111 SANTA MONICA BLVD STE 500 LOS ANGELES, CA 90025-3339	86/386,622	DISCAGRAM	Extension of Time to Oppose Filed February 21, 2015	CLASS 42: Computer services, namely, creating an on-line community for registered users to post, review and and exchange commentary, reviews, ratings, referrals and recommendations relating to products, businesses and service providers; Providing a website featuring non-downloadable software for users to post, review and exchange commentary, reviews, ratings, referrals and recommendations relating to products, businesses and service providers; Software as a service (SAAS) services featuring software for users to post, review and exchange

Case3:15-cv-03610-JSC Document1-7 Filed08/06/15 Page26 of 40

commentary, reviews, ratings, referrals and recommendations relating to products, businesses and service providers; CLASS 45: On-line social networking services; Online social networking services in the field of delivering services in the field of delivering services in the field of delivering web-based knowledge, Business consulting services in the field of delivering web-based knowledge, Business consulting services in the field of delivering web-based knowledge, Business consulting services in the field of online collaboration and collabor						
services; Online social networking services provided through a community website Acesse Corporation 86/364,528 WEBGRAMPRO TERMINATED CLASS 9: Downloadable computer software for facilitation of electronic transmission of information, data, documents, voice, and images over the internet, Downloadable computer software which allows users to participate in web-based meetings and classes, with access to data, documents, images and software applications through a web browser, Downloadable computer software applications through a web browser, Downloadable computer software for accessing, viewing, and controlling remote computers and controlling remote computers and controlling remote computers and software applications through a web browser, Downloadable computer software for accessing, training programs, and seminars, Business consulting services in the field of web based events, conferences, training programs, and seminars, Business consulting services in the field of delivering web-based knowledge, Business consulting services in the field of online collaboration and collaboration technologies, Business consulting services in the field of messages among computer views concerning the						referrals and recommendations relating to products, businesses and
MICHELLE KALLENBACH 2260 RIDGE DR , APT 13 MINNEAPOLIS, MN 55416-5631 UNITED STATES mitzikallenbach@comcast.net Michelle Kallenbach@comcast.net Michelle Kallenbach						services; Online social networking services provided through a community website
	41	MICHELLE KALLENBACH 2260 RIDGE DR , APT 13 MINNEAPOLIS, MN 55416-5631 UNITED STATES	86/364,528	WEBGRAMPRO	TERMINATED	CLASS 9: Downloadable computer software for facilitation of electronic transmission of information, data, documents, voice, and images over the Internet, Downloadable computer software which allows users to participate in web-based meetings and classes, with access to data, documents, images and software applications through a web browser, Downloadable computer software for accessing, viewing, and controlling remote computers and computer networks; CLASS 35: Business consultation services; Business consulting services in the field of web based events, conferences, training programs, learning programs, and seminars, Business consulting services in the field of delivering web-based knowledge, Business consulting services in the field of online collaboration and collaboration technologies, Business consulting services in the fields of sales and marketing; CLASS 38: Providing on-line forums for transmission of messages among

CLASS 42: Computer services, namely, creating an on-line community for registered users to participate in discussions, get feedback from their peers, form communities, engage in social networking, and exchange documents; Computer services, namely, hosting on-line web faci for others for organizing and conducting online meetings, gatherings, and interactive discussions 1 Insta Photo LLC 1 Insta Photo LLC 1 Insta Photo LLC 2 Insta Photo LLC 3 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC 4 Insta Photo LLC
BOOTH photography and/or videography

	NEW ENGLAND PATENT & TRADEMARK 1 SALEM GRN STE 405				videos
43	SALEM, MA 01970-3790 Byss Mobile Spólka Jawna, Marcin Krakowiak, Tomasz Sarnowski, and Grzegorz Mozdzierz MARCIN KRAKOWIAK AL BOHATEROW WARSZAWY 21 SZCZECIN, 70-372 POLAND mk@byss.mobi	79/143,187	SELFIEGRAM	December 19, 2014	CLASS 9: Computer software for modifying the appearance and enabling transmission of photographs; software and software applications for mobile devices, namely, for modifying the appearance and enabling transmission of photographs; games software
44	Vijay Doddavala RAJ ABHYANKER RAJ ABHYANKER, P.C. 1580 W EL CAMINO REAL STE 8 MOUNTAIN VIEW, CA 94040-2462	85/933,904	INSTAPICFRAM E	TERMINATED	CLASS 9: Computer application software for mobile phones, portable media players and handheld computers, namely, software for photo and video image processing and enhancement software, media management, photo arts and crafts, video shooting and processing; Downloadable computer software for modifying the appearance and enabling transmission of photographs
45	Cheetah Lounge Mediaworks, Inc. JASON A. FISCHER BRYN & ASSOCIATES, P.A. 2 S BISCAYNE BLVD STE 2680 MIAMI, FL 33131-1815	86/290,902	INSTACELEBS	Extension of Time to Oppose Filed November 11, 2014, but TERMINATED – Notice of Allowance Issued for Application	CLASS 41: Entertainment services in the nature of an ongoing reality based television program
46	One Clique, Inc. William R. Samuels W.R. Samuels Law PLLC 280 Madison Avenue, Suite 600 New York, NY 10016	86/241,091	INSTACLIQUE	TERMINATED	CLASS 42: Providing a website featuring technology that enables third-party users to market and promote their goods by publishing user-generated or user-specified content
47	Shane Doyle DOYLE, SHANE 2195 FERNDALE ST SYLVAN LAKE, MI 48320-1725	86/254,609	HASHGRAM	TERMINATED	CLASS 35: Advertising and promotional services featuring sponsored tags, taglines and branded content of images and videos

48	I.D.E.A. LLC	86/227,189	INSTAVEME	TERMINATED	CLASS 9: Downloadable computer
	IFFEDEN I COLINADIZ				software for creating and editing videos and uploading videos to the
	JEFFREY J. SCHWARTZ SCHWARTZ LAW FIRM, P.C.				Internet in creating Internet video
	6100 FAIRVIEW RD STE 1135	1	,		memes
	CHARLOTTE, NC 28210-4258				
49	A.M. Systems LLC	86/115,364	TERRAGRAM	TERMINATED	CLASS 45: On-line social networking services
	A.M. Systems LLC				
j	423 Popes Island Rd.				
	Milford, CT 06461-1751				
50	Evergram, Inc.	85/613,424	EVERGRAM	April 28, 2014	CLASS 9: Downloadable computer software in the nature of digital
-	LAV DEOLED				albums or other electronic media
	JAY BEGLER NIESAR & VESTAL LLP				formats intended to memorialize life
	90 NEW MONTGOMERY ST FL 9				moments, which allows the system
	SAN FRANCISCO, CA 94105-4504				and/or its users the ability to capture,
	UNITED STATES				produce, modify, edit, store, access,
	jbegler@nvlawllp.com				upload, download, synchronize, index,
					tag, manage, blog, display, stream,
					share, link and provide electronic media or information via computer
1					over other communications networks:
				·	over other communications networks,
					CLASS 42: Providing use of online
					temporary non-downloadable software
					in the nature of digital albums or other
					electronic media formats intended to
	·			ļ	memorialize life moments, which
					gives users the ability to capture,
1					produce, edit, store, upload,
					download, synchronize, index, tag, manage, display, share and provide
					electronic media or information via
					computer over other communications
					networks
51	Corey Provencal	86/073,614	INSTAJAMZ	TERMINATED	CLASS 9: Computer application
					software for mobile phones and
	Corey Provencal				tablets, namely, software for adding
	504 MIRASOL CIR APT 101				music, voice over, and sound effects
	CELEBRATION, FL 34747-5136	100/000 00=	INOTACTIV	TEDMINIATED	to a video
52	MOBITEMPUS	86/030,687	INSTASTIX	TERMINATED	CLASS 9: Personalized decorative

Case3:15-cv-03610-JSC Document1-7 Filed08/06/15 Page30 of 40

[<u>.</u>					magnets for household purposes
	MOBITEMPUS 90 WASHINGTON ST NEW YORK, NY 10006-2254				
53	Sean Broihier and Associates, LLC AMY SULLIVAN CAHILL STITES & HARBISON PLLC 400 W MARKET ST, STE 1800 LOUISVILLE, KY 40202-3352 UNITED STATES acahill@stites.com	85/742,628	INSTAPRINTS	February 5, 2014	CLASS 16: Print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards; CLASS 35: Online retail store services featuring print products, namely, art prints on canvas, framed art prints, art prints, acrylic art prints, art prints on metal, posters, and greeting cards; advertising services, namely, promoting the artwork of other artists; promoting visual arts events by means of providing an online events calendar, and information about art, artists, and art events via an internet website, all for promotional purposes; online business networking services for artists; online advertising and marketing in the field of artwork; CLASS 40: Online photographic and image processing services, namely, photographic printing, reproduction and retouching; transferring photographic and digital images from uploaded digital images to imprintable surfaces, namely, printing of photographic images from digital media
54	Wu Heshun V SCHWARTZMANN V SCHWARTZMANN & ASSOCIATES PO BOX 1093 COCONUT GROVE, FL 33133 UNITED STATES	85/857,021	INSTAFRAME	TERMINATED	CLASS 9: Computer software for organizing and viewing digital images and photographs; Computer software for sending images via the internet that may be downloaded from a global computer network

	attorneys@taxlaw-patents.com;vshvartsma		1		
55	Friends That Ride LLC Friends That Ride LLC 2521 E Dublin Ct Gilbert, AZ 85295-9014	86/002,070	TATTYGRAM	TERMINATED	CLASS 42: Computer services, namely, creating an on-line community for registered users to create profiles and upload their own tattoo artwork; Providing a web site featuring technology that enables users to get feedback from their peers, form virtual communities, engage in social networking
56	Boreta LLC JENNIFER BURKE SYLVA SYLVA LAW 12 GEARY ST, SUITE 505 SAN FRANCISCO, CA 94108-5714 UNITED STATES jennifer@sylvalaw.com	85/829,301	MIRRORGRAM	TERMINATED	CLASS 9: Downloadable computer software for altering the appearance of still or moving photographic images and enabling the transmission of the same
57	D2M ASIA LTD. LARISA MIGACHYOV LAW OFFICES OF LARISA MIGACHYOV PO BOX 2061 SAN FRANCISCO, CA 94126-2061	85/960,968	INSTACUBE	TERMINATED	CLASS 9: Digital camera accessory in the nature of a digital photo viewer; Digital media receivers; Digital media streaming devices; Digital photo frames; Digital photo frames for displaying digital pictures, video clips, and music; Electronic LCD display unit with multi-networking (TCP/IP) capabilities
58	M8 East, LLC WILLIAM M. MERONE KENYON & KENYON LLP 1500 K ST NW STE 700 WASHINGTON, DC 20005-1257 UNITED STATES	85/731,332	TALLYGRAM	TERMINATED	CLASS 45: On-line social networking services; on-line social introduction services
58	Instaply, Inc. ELIZABETH OLINER OLINER LAW 760 MARKET ST STE 753 SAN FRANCISCO, CA 94102-2308 UNITED STATES	85/850,549	INSTAPLY	TERMINATED	CLASS 9: Computer application software for mobile devices, namely, software that enables users to transmit and exchange messages with businesses; Downloadable software in the nature of a mobile application for use in scheduling appointments, making reservations, and making and

				processing payment transactions with credit cards, debit cards and other
				payment forms; analytic tools, namely,
			j	computer programs, and computer
				software development tools for
				evaluating and managing information
				on business performance and
	,			customer acquisition and retention
				rates; software for use in payment
1				processing and tracking; customer
				relations, receipts, communications,
				and loyalty program tools, namely, software that enables merchants to
				create incentive award programs to
				promote customer loyalty through the
				issuance and processing of loyalty
				coupons for frequent use of
				participating businesses;
				CLASS 38: Telecommunication
				services, namely, electronic
				transmission of data and messages;
		'		electronic messaging; Communication services, namely, transmission of data
				by telecommunications networks,
1				wireless communication networks, the
				Internet, information services
				networks and data networks; Text
				messaging services between
				customers and businesses via SMS,
				wireless communication networks, the
				Internet, information services
				networks and data networks;
				CLASS 42: Providing temporary use
				of on-line, non-downloadable
				communications software for enabling
				transmission of data and voice and for
				instant messaging; providing
				temporary use of on-line, non-
				downloadable software for
				communication via the Internet;

					providing temporary use of on-line, non-downloadable software for enabling Internet communications via a computer network; providing temporary use of on-line, non-downloadable software for use in scheduling appointments, making reservations, and making and processing payment transactions with credit cards, debit cards and other payment forms; providing temporary use of on-line, non-downloadable software for providing analytic tools relating to payment processing and tracking; providing customer relations, receipts, communications, and loyalty program tools, namely, providing temporary use of on-line, non-downloadable software that enables merchants to create incentive awards programs to promote customer loyalty through the issuance and processing of loyalty coupons for frequent use of participating businesses
59	Instameet, Inc. BENJAMIN A COSTA RIDDER COSTA & JOHNSTONE LLP 12 GEARY ST STE 701 SAN FRANCISCO, CA 94108-5718	85/826,116	INSTAMEET	TERMINATED	CLASS 9: Downloadable software for video conferencing; Downloadable software in the nature of a mobile application for video conferencing; Downloadable software for social networking; Downloadable software in the nature of a mobile application for social networking; Downloadable software for providing on-line facilities for real-time interaction with other computer users concerning topics of general interest; Downloadable software for electronic transmission of data and digital messaging via global computer and communication networks; Downloadable software for instant messaging and video conferencing; Downloadable software

					for streaming of audio-visual material on the internet;
					CLASS 38: Video conferencing services; Computer services, namely, providing on-line facilities for real-time interaction with other computer users concerning topics of general interest; Providing on-line chat rooms for social networking; Telecommunications services, namely, electronic transmission of data and digital messaging via global computer and communication networks; Digital multimedia broadcasting services over the Internet, namely, posting, displaying, and electronically transmitting data, audio and video; Instant messaging and video conferencing services; Streaming of audio-visual material on the internet; Peer-to-peer network computer services, namely, electronic transmission of audio, video and other data and documents among computers;
					CLASS 42: Providing temporary use of on-line non-downloadable software for video conferencing and social networking;
					CLASS 45: Providing on-line social networking services
60	JUSTIN GORDON AND SAMIA KHAN D.B.A. INST JUSTIN GORDON AND SAMIA KHAN D.B.A. INST 12100 WILSHIRE BLVD STE 800 LOS ANGELES, CA 90025-7140	85/882,797	INSTACURITY	TERMINATED	CLASS 41: Providing a website for entertainment purposes featuring photos, videos, memes, gifs about social media and popular culture; blogging services, namely, providing on-line journals, namely, blogs in the field of social issues, entertainment, and popular culture; providing on-line

61	Juan Andres Martinez 1144 E RUSTIC RD	85/833,439	SKINAGRAM	TERMINATED	information in the field of entertainment, social media, current events, comedy, cultural events and popular culture via the Internet; providing an on-line computer database featuring information and content in the field of entertainment, social media, current events, comedy, cultural events and popular culture CLASS 9: Computer game software for use on mobile and cellular phones
62	Instructagram LLC RICHARD C. WOODBRIDGE FOX ROTHSCHILD LLP PO BOX 5231 PRINCETON, NJ 08543-5231	85/732,588	INSTRUCTAGRA M	TERMINATED	CLASS 42: Providing a website featuring technology where users can upload and view how-to instructions, including text and pictures, on any topic, with the topic determined by the user
63	ALMUSALLAM SALEH PRODESIGN IT SOLUTIONS BLOCK 4, STREET 8 SURRA KUWAIT, 45404 KUWAIT saleh@prodesignit.com, salehalmusallam@gmail.com	85/827,826	INSTAFAN	TERMINATED	CLASS 9: Computer application software for mobile phones, namely, software for analyzing data and transmission of photographs
64	SweetLabs, Inc. CHARLES R HALLORAN KAUTH POMEROY PECK AND BAILEY LLP 2400 E KATELLA AVE , STE 1050 ANAHEIM, CA 92806-5985 tess@kppb.com	85/619,623	INSTAGRILLE	TERMINATED	CLASS 9: Computer software, namely downloadable communications software to enable transmission, access, organization, and management of images via the Internet and other communications networks; computer software, namely downloadable communications software for accessing information on a global computer network
65	Fullcircle Geosocial Network, Inc. STUART J. WEST West & Associates A Pc 2815 Mitchell Dr Ste 209 Walnut Creek, CA 94598-1632	86/496,627	INSTACAST	June 28, 2015	CLASS 38: Broadcasting of video and audio programming over the Internet

66	rademark@westpatentlaw.com Instaedu, Inc. Ilami A. Gekas Foley & Lardner LLP B21 North Clark Street, Suite 2800 Chicago, IL 60654 pdocketing@foley.com;jgekas@foley.com	86/233,316	INSTAEDU	August 4, 2015	CLASS 38: Providing internet chat rooms; providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the field of general interest; providing voice chat services; communication services, namely, transmitting text, images, files, audio, video and audio-visual content and other data for the facilitation of communications between two or multiple users via computer networks and communication networks; audio and video teleconferencing; electronic transmission of data and documents
					over computer terminals; electronic transmission of audio, video and other data and documents among computers, portable, and handheld digital electronic devices; computer services, namely, providing on-line chat rooms and electronic bulletin boards for transmission of messages among users in the fields of academic subjects, topics, and tutoring; providing on-line facilities for real-time interaction with other computer users and electronic bulletin boards concerning academic subjects, topics, and tutoring; providing on-line discussion group forums and chat rooms for transmission of messages among computer users in the fields of academic subjects, topics, and tutoring
					CLASS 41: Providing tutoring in the fields of reading, writing, mathematics, science, social studies, computer science, engineering, business, economics, accounting, foreign

	1	languages, humanities, history, study
		skills, and test preparation skills;
		providing mentoring, tutoring, classes,
		seminars, and workshops in the fields
		1
		of reading, writing, mathematics,
		science, social studies, computer
		science, engineering, business,
		economics, accounting, foreign
1		languages, humanities, history, study
		skills, and test preparation skills;
		providing tutoring in secondary and
		post-secondary student academic
		subjects; educational services,
		namely, providing educational
		performance evaluation, guidance and
		monitoring for secondary and post-
		secondary students; providing
		information about education in the
		academic fields of reading, writing,
		mathematics, science, social studies,
		computer science, engineering,
		business, economics, accounting,
		foreign languages, humanities,
		history, study skills, and test
		preparation skills; providing
		educational information in the
		academic fields of reading, writing,
		mathematics, science, social studies,
		computer science, engineering,
		business, economics, accounting,
		foreign languages, humanities,
		history, study skills, and test
		preparation skills for the purpose of
		academic study; consultation in the
ļ.		field of secondary and post-secondary
		education systems featuring the
		academic fields of reading, writing,
		mathematics, science, social studies,
		computer science, engineering,
		business, economics, accounting,
		foreign languages, humanities,
		history, study skills, and test
L	<u> </u>	

			}	preparation skills; Educational
				services, namely, conducting
				educational programs featuring
				diagnostic and prescriptive,
				individualized and personalized
		·		instruction techniques in the fields of
	:			reading, writing, mathematics,
				science, social studies, computer
1				
				science, engineering, business,
				economics, accounting, foreign
				languages, humanities, history, study
				skills, and test preparation;
				Conducting educational programs,
				namely, online college test
				preparation services; academic
-				enrichment programs in the fields of
				reading, writing, mathematics,
				science, social studies, computer
				science, engineering, business,
				economics, accounting, foreign
				languages, humanities, history, study
				skills, and test preparation
ļ		Ì		OLAGO 40-Describio de actuale esta
				CLASS 42:Providing a web site
				featuring technology that enables
				users to connect with tutors; providing
				a website featuring technology that
				matches users with specific tutors;
				providing a website featuring on-line
1				non-downloadable software that
1				enables users to simultaneously
				upload, create and edit documents
				and computer code; providing a
				website featuring technology that
1				enables users to share their screens
				with other users for academic
				purposes; providing an on-line
				network environment featuring
				technology that enables users to
				share data and content in the fields of
				academic subjects, topics, and
				tutoring; providing a website featuring

					technology that enables users to share documents, images, and videos; providing a web site featuring technology that enables users to connect with tutors using video, audio, text and chat room communication; Platform as a service (PAAS) featuring computer software platforms for online tutoring for providing real time academic support
67	DoodieGram.com DOODIEGRAM.COM Doodiegram Com 160 S Linden Ave Ste 221 South San Francisco, CA 94080-6436	86/538,809	DOODIEGRAM	Extension of Time to Oppose filed July 29, 2015	CLASS 38: Communication by telegram
68	InstaBrand LLC LEONARD BUDOW FOX ROTHSCHILD LLP 100 PARK AVE FL 15 NEW YORK, NY 10017-5551	86/169,772	INSTABRAND	Extension of Time to Oppose filed July 20, 2015	CLASS 35: Advertisement network for the dissemination of information, namely, an online advertising network matching services for connecting brands to celebrities, fashion bloggers, and social media leaders for promotion purposes
69	Instatooth, LLC ALBERT L. SCHMEISER Schmeiser Olsen & Watts Llp 18 E University Dr Ste 101 Mesa, AZ 85201-5946	86/355,418	INSTATOOTH	Extension of Time to Oppose filed June 23, 2015	CLASS 45: Online social networking services for dentists
70	Dunn-Edwards Corporation JENNIFER V. WHITING J WHITING LAW 226 W. OJAI AVENUE, SUITE 101-508 OJAI, CA 93023	86/486,990	DUNN- EDWARDS INSTACOLOR	Extension of Time to Oppose filed June 23, 2015	CLASS 09: Paint color selection system for exterior and interior wall surfaces of residential, commercial and industrial structures, namely, computer programs and software for use in the interactive selection, display and matching of color elements on a desired interior or exterior wall surface of a building structure; computer programs and software for preparing a digital image of a room, a building exterior, or other interior or exterior surface, which is to

					be painted; computer programs and software for selecting a particular desired color, or a particular desired combination of colors from a multiplicity of colors and color combinations in a computer database for application to the digital image for viewing the appearance of the room, building exterior, or other interior or exterior surface to be painted; Computer application software for mobile phones, mobile devices and desktop and laptop computers for the purposes of paint color selection and matching
71	Storm Cloud Media, LLC STORM CLOUD MEDIA. LLC STORM CLOUD MEDIA. LLC 208 AMBROSIO ST SANTA FE, NM 87501-2526	86/403,579	DHARMAGRAM	Extension of Time to Oppose filed June 5, 2015	CLASS 9: Downloadable mobile applications for use with mobile phones, portable media players, computer tablets and handheld and desktop computers, for sending, receiving, viewing, storing, creating, and sharing inspiring quoteembellished images

UNITED STATES DISTRICT COURT

for the

Northern District of California

PIXELS.COM, LLC, an Illinois limited liability company,)))
Plaintiff(s))
V.	Civil Action No. C 15-3610 JSC
INSTAGRAM, LLC, a Delaware limited liability)
company,)
)
Defendant(s)	ý

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Instagram, LLC
1601 Willow Road
Menlo Park, California 94025

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

VIJAY K. TOKE (CA Bar No. 215079) MATTHEW S. SLEVIN (CA Bar No. 287968) COBALT LLP 918 Parker Street, Bldg. A21 Berkeley, CA 94710

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date:	08/07/2015	(Seile	W. Wieking Rash
		RICTO	Signature of Clerk or Deputy Clerk

CLERK OF COURT

Civil Action No. C 15-3610 JSC

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (1))

	This summons for (nan	ne of individual and title, if any)					
was red	ceived by me on (date)		•				
	☐ I personally served	the summons on the indivi	idual at <i>(place)</i>				
			on (date)	; or			
	☐ I left the summons	☐ I left the summons at the individual's residence or usual place of abode with (name)					
	, a person of suitable age and discretion who resides there,						
	on (date) , and mailed a copy to the individual's last known address; or						
	☐ I served the summo	ons on (name of individual)		, who is			
	designated by law to accept service of process on behalf of (name of organization)						
			on (date)	; or			
	☐ I returned the summons unexecuted because			; or			
	☐ Other (specify):						
	My fees are \$	for travel and \$	for services, for a total of \$	0.00			
	I declare under penalty of perjury that this information is true.						
Date:			Server's signature				
			Printed name and title				
			Server's address				

Additional information regarding attempted service, etc:

Print Save As... Reset